

No. 10450

United States
Circuit Court of Appeals
for the Ninth Circuit.

HARRY BRIDGES,

Appellant,

vs.

I. F. WILSON, as District Director, Immigration
and Naturalization Service, Department of
Justice,

Appellee.

Transcript of Record

VOLUME II

Pages 493 to 967

Upon Appeal from the District Court of the United States
for the Northern District of California.

Northern Division

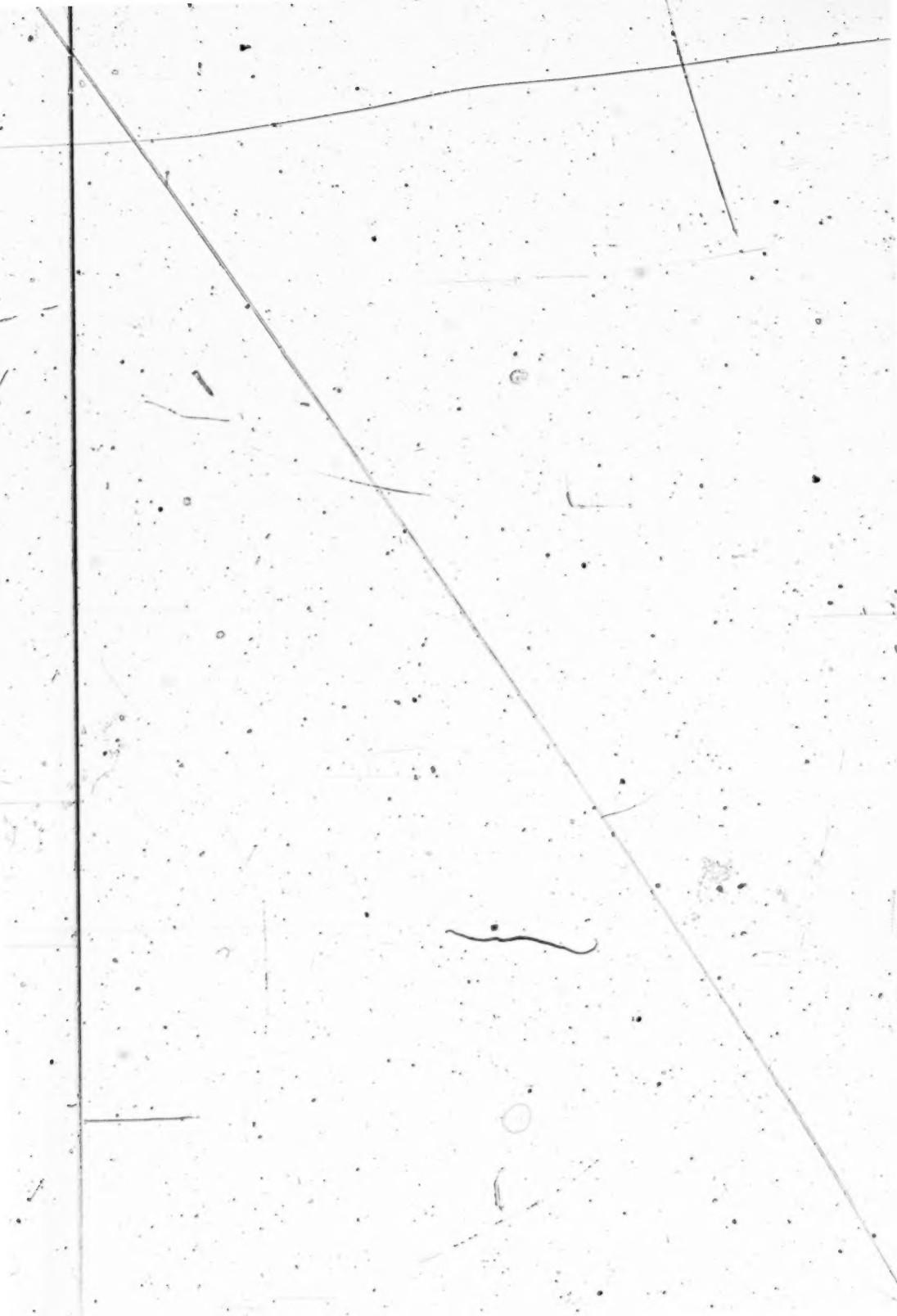
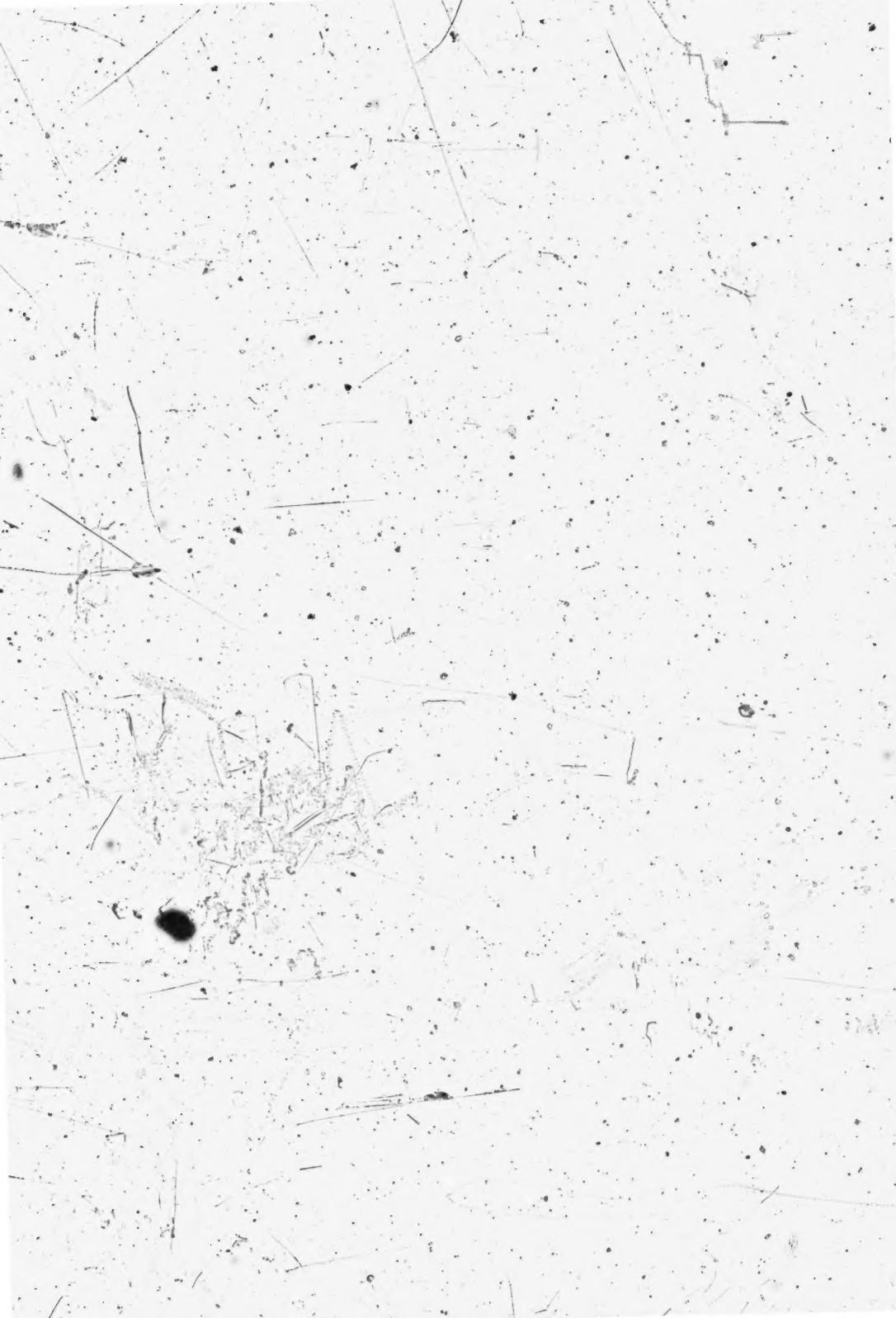


EXHIBIT "H"

[Endorsed]: Filed June 2, 1942. Walter B.
Maling, Clerk.



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IN THE MATTER OF HARRY R. BRIDGES

FINDINGS AND CONCLUSIONS OF THE TRIAL EXAMINER



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1939



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LETTER OF TRANSMITTAL

DECEMBER 28, 1939.

To the SECRETARY OF LABOR:

I have the honor to submit herewith my findings in the matter of the deportation of Harry R. Bridges.

These findings are, perhaps, unusually long and detailed but I have thought it desirable to state in full the bases which underlie my conclusions. I have, therefore, set forth substantially every item of evidence contained in the long and voluminous record and attempted to give it that weight that it deserves. Any other method of approach seemed to me futile, for conclusions as to the credibility that should attach to the witnesses in this proceeding can be satisfactorily reached only after painstaking and minute analysis of their testimony. That process alone permits a fleeting doubt to be dismissed or to ripen into the conviction that what is paraded as truth bears the unmistakable marks of falsehood.

Inasmuch as my conclusions are that the evidence does not permit the finding that Harry R. Bridges is either a member of the Communist Party or affiliated with that party, I have not deemed it necessary to find whether or not, upon the extended evidence presented by this record, that party advocates, advises or teaches the overthrow of the Government of the United States by force or violence or causes to be written, circulated, distributed, printed, published, or displayed printed matter advising, advocating, or teaching the overthrow of the Government of the United States by force or violence.

Respectfully yours,

JAMES M. LANDIS,
Trial Examiner.

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I. INTRODUCTORY

I. THE FORMAL CHARGES

On March 2, 1938, a warrant was issued by the assistant to the Secretary of Labor for the arrest of Harry Renton Bridges, an alien. This warrant recited that it appeared that Bridges was subject to deportation pursuant to the provisions of section 2 of the act of October 16, 1918, as amended by the act of June 5, 1920, 8 U. S. C. section 137, ordered that Bridges should be taken into custody and that a hearing should be granted him enabling him to show cause why he should not be deported in conformity with law.¹ See 8 U. S. C. section 155.

The specific charges made in the warrant against Bridges were four in number :

(1) That, after he entered the United States, he became a member of an organization that advises, advocates, and teaches the overthrow by force and violence of the Government of the United States;

(2) That, after he entered the United States, he became affiliated with such an organization;

(3) That, after he entered the United States, he became a member of an organization that causes to be written, circulated, distributed, printed, published, and displayed printed matter advising, advocating, and teaching the overthrow by force and violence of the Government of the United States;

(4) That, after he entered the United States, he became affiliated with such an organization.

On June 12, 1939, following the decision of the Supreme Court of the United States in *Kessler v. Strecker*, 307 U. S. 22, the warrant was amended.² The only change made in the specifications of the grounds upon which the warrant was issued was that all four charges in the amended warrant were framed to state that Bridges both was and is a member of or affiliated with the organization described.

Preliminary to the hearing counsel for Bridges filed a request for a bill of particulars asking, among other things, for the name of the organization referred to in the warrant, the date when and the place where Bridges was alleged to have become a member, the written documents, if any, tending to prove that membership, and numerous other particulars. The Government opposed the granting of this request save as to the name of the organization referred to in the warrant, which was stated to be the Communist Party of the United

¹ This warrant was served on Bridges in Baltimore on March 5, 1938. Pending further proceedings Bridges was released from custody upon his own recognizance.

² The warrant reads "and;" the statute reads "or."

³ The warrant again reads "and;" the statute reads "or."

⁴ The warrant again reads "and;" the statute reads "or."

⁵ The warrant again reads "and;" the statute reads "or."

⁶ The warrant again reads "and;" the statute reads "or."

⁷ The amended warrant was served on Bridges in San Francisco on June 12, 1939.

States of America. The Government's contentions in this respect were upheld on June 27, 1939, by the examiner in a written opinion which is attached hereto as appendix I.

2. THE PROCEDURE

A. REPRESENTATION OF PARTIES

Pursuant to paragraph 1 of subdivision D of rule 19 of the Immigration Rules and Regulations, hearings were opened on July 10, 1939, to enable Bridges to show cause, if any there be, why he should not be deported. In these hearings the Government was represented by Thomas B. Shoemaker of Washington, D. C., Arthur J. Phelan of San Francisco, Raphael B. Bonham of Seattle, Roy J. Norene of Portland and John B. Boyd of Seattle. Bridges was represented by Carol King of New York City, Richard Gladstein, Aubrey Grossman, and Ben Margolis, the latter three from San Francisco. Two witnesses, Harper L. Knowles and Stanley M. Doyle, who had been subpoenaed at the request of Bridges, were specially represented by Harry W. Glensor and Pierce J. Deasy of San Francisco.

B. EXTENT OF THE HEARINGS

These hearings continued almost uninterruptedly for 11 weeks, occupying each day, 5 days of the week, from 9:30 a. m. to 4 p. m. They were finally closed on September 14, 1939. In all 45 days were occupied in the actual taking of testimony. Seventeen witnesses were called by the Government in connection with the direct presentation of its case, 2 of whom were witnesses testifying merely to identify certain documentary evidence.⁸ In addition 15 further witnesses were called by the Government in rebuttal, 2 of whom might more properly have been regarded as witnesses for the case in chief.⁹ Twenty-seven witnesses¹⁰ were called by the alien, 4 of whom were called merely to identify certain documentary evidence.¹¹

The testimony covers 7,724 pages, exclusive of 274 exhibits. As indicative of the time consumed respectively by the parties, a rough count would attribute 2,900 of these pages to interrogation of witnesses by the Government, 3,600 to interrogation of witnesses by counsel for the alien, 500 to interrogation of witnesses by the examiner and the balance to proceedings of a miscellaneous nature. Of the 274 exhibits, 138 were introduced by the Government and 136 by the alien.

C. PUBLIC CHARACTER OF HEARINGS

The hearings were held in San Francisco Bay on Angel Island at the headquarters of the Immigration Service.¹² Departing from the tra-

⁸ These two witnesses were John R. Phillips and A. Huckle, Immigration Inspectors.

⁹ These two witnesses were Miles G. Humphreys and David Prescott Barrows.

¹⁰ Exclusive of John L. Leech, who after being called by the Government was recalled by the alien, but inclusive of Al Rosser whose testimony was taken by deposition in the Penitentiary at Salem, Oreg.

¹¹ These witnesses were R. L. Rumsey, William H. Parker, Raymond Rollins and C. E. Trafton.

¹² The hearings were held on one day at the San Quentin Prison in order to take the testimony of two witnesses who were then in prison, having been convicted of murder in the second degree. Subpenas had been served upon these defendants, but upon being advised that they could not respond to them at Angel Island, arrangements were made through the courtesy of the warden, Cort Smith, to take the testimony at the prison. The proceedings in connection with the effort to take the testimony of Stanley M. Doyle, efforts which occupied 2 days, were conducted at the Post Office Building in San Francisco.

ditional practice in deportation proceedings, the hearings were open to the public. Permission to attend them had, however, to be requested of the immigration authorities or of the examiner. This device was necessary due to the limitations of space in the hearing room itself. Permission was generally granted to all who applied. Standing permits were granted to persons representing interests whose concern with the conduct of the proceedings was more than a casual one, as, for example, other departments of the United States Government, duly accredited representatives of the press, the Bridges Defense Committee, the American Civil Liberties League, the International Labor Defense and the King-Ramsay-Conner Defense Committee. At no time was it necessary to resort to measures to preserve order and decorum in the hearing room.

At the opening of the hearings a motion was made in behalf of the alien to move the hearings to the city of San Francisco. The purpose of the motion was to afford greater opportunity to the public to attend the hearings and also to avoid the inconveniences necessitated by the daily boat trip to Angel Island—a trip occupying about a half an hour each way—and such other inconveniences as necessarily flowed therefrom. This motion was opposed by the Government upon the ground that better facilities for the protection of its witnesses could be afforded on Angel Island. The motion was temporarily denied by the examiner and, when renewed by the alien at the close of the Government's case in chief, was finally denied for reasons set forth in full upon the record. The examiner's opinion denying the motion is attached hereto as appendix II.

D. RULES OF EVIDENCE APPLIED

Certain aspects of the procedure that prevailed during the hearing deserve comment. The strict rules governing the admissibility of evidence at common law were not applied by the examiner, nor were they insisted upon by the parties. Cf. Stephens, *ADMINISTRATIVE TRIBUNALS AND THE RULES OF EVIDENCE, passim*. Indeed, relatively few objections based upon the fact that the testimony proffered should be excluded at common law were made either by the Government or the alien. Objections were, however, frequently interposed, even by the examiner, upon the ground that a particular line of inquiry seemed too irrelevant to the main issues or that the questions sought to elicit answers not with reference to the witnesses' knowledge of facts but with reference to his opinions as to what normal human conduct might have dictated in a particular situation. The examiner also, pursuant to traditional legal practice, refused to permit counsel for the alien to introduce other than reputation testimony as to the character of the alien, excluding counsel's attempts to get upon the record individual opinions as to alien's veracity and credibility. One witness, Harper L. Knowles, after having taken the stand, at the suggestion of the examiner, employed counsel on his own behalf, inasmuch as there appeared to be a possibility that some personal privilege of the witness might be put in issue.

Due to the fact that the defense sounded in conspiracy, the range of cross-examination and defense testimony was much broader than would normally have been the case. This, however, is the normal concomitant of any attempt to prove conspiracy either by way of prosecution or defense. See 1 WIGMORE, *EVIDENCE*, section 370.

E. ISSUANCE OF SUBPENAS

Subpenas were issued for most of the witnesses who appeared. The Government subpoenaed such witnesses as it chose to subpoena without consultation with the examiner. Subpoenas requested by the alien were first submitted to the examiner for his approval. In all these cases the examiner gave the Government the opportunity to interpose objections to the issuance of the particular subpoena. Objections were informally made in a few instances, but in every case in which a subpoena was requested the subpoena was issued. To the examiner it seemed that if the testimony sought was *prima facie* relevant, the subpoena should issue. The extent to which the due process clause of the Fifth Amendment requires the issuance of subpoenas at the request of an alien, when the Government exercises that power in its own behalf, has never been clearly elaborated by the decisions.¹³ At most, however, these cases formulate the minimum restrictions placed by due process upon the exercise of administrative power in administrative proceedings rather than suggesting the practice that best promotes standards of justice and fairness. Despite the fact that deportation proceedings are technically civil in nature, in substance they carry the serious penalty of forfeiture of home and possibly of livelihood. Cf. *Ng Fung Ho v. White*, 259 U. S. 276; *Wallis v. Tecchio*, 65 F. (2d) 250. For this reason a principle analogous to that expressed in the Sixth Amendment to the Constitution of the United States with reference to the right of an accused in criminal prosecutions to have compulsory process for the obtaining of witnesses in his favor seems applicable to proceedings of this nature. But cf. *Berkman v. Tillinghast*, 58 F. (2d) 621; *Murdoch v. Clark*, 53 F. (2d) 155. Such a principle was in substance applied by the examiner.

F. PRODUCTION OF DOCUMENTS

Two circumstances in this connection deserve comment: The first relates to a series of requests made by the alien for the production of certain documentary evidence in the possession of the Government. This evidence consisted either of affidavits of witnesses taken before immigration officials—witnesses who were later called to the stand—or of correspondence between officials of the Department of Labor stating facts that tended to impeach the testimony of witnesses called by the Government.¹⁴ This evidence was sought purely to impeach testimony already given by witnesses for the Government. Obviously the examiner as a subordinate official of the Department of Labor could not issue compulsory process for the production of documentary evidence within the possession of the Department. Counsel for the Government, claiming to be bound by Department regulations, re-

¹³ Cf. *Low Wah Suey v. Backus*, 225 U. S. 490; *Young Hoow v. North*, 223 U. S. 705; *Missouri ex rel. Hurcitz v. North*, 273 U. S. 40; *Goldsby v. United States*, 160 U. S. 76; *Austin v. United States*, 19 F. (2d) 127, cert. denied in 275 U. S. 523; *Chun Shee v. Nagle*, 9 F. (2d) 342; *Mattes v. Nagle*, 27 F. (2d) 425; *Whitfield v. Hanes*, 222 Fed. 745. For the analogous problem in State practice, see *Brinkley v. Hassig*, 130 Kan. 874, 289 Pac. 64, app. dismissed, 282 U. S. 800; *Jewell v. McGann*, 95 Ohio 193, 116 N. E. 42; *State v. Laborde*, 161 La. 771, 109 So. 485; *Ovence v. State*, 169 Miss. 141, 152 So. 651; *Mattes v. Danaker v. Harris*, 236 App. Div. 481, 260 N. Y. Supp. 22; *Coney Island Dairy Products Corp. v. Baldwin*, 243 App. Div. 178, 276 N. Y. Supp. 682.

¹⁴ An obvious difference exists between documentary evidence of this character and memoranda made by counsel during the course of an investigation reflecting counsel's own opinions upon the value of testimony acquired in the preliminary examination of a witness. The latter type of documentary evidence would be inadmissible even if proffered.

fused in each instance to produce the evidence requested even though it was then in their possession.¹⁵

The first of these requests was granted by the secretary. Thereafter to afford greater expedition the examiner was empowered to refuse or grant any such request that might be made. Some requests of this character were denied, others were granted, the basis of decision in each case being the relevancy of the documentary evidence requested.

G. CONTUMACIOUS WITNESSES

One witness, Stanley M. Doyle, proved to be a problem in contumacy. The circumstances surrounding this contumacy are set forth in detail in appendix III. They are significant in weighing the credibility of certain testimony given by other witnesses relating to Doyle. His conduct throughout evidenced a desire not to testify and efforts were made to interpose every trivial legal technicality that could be conceived of to avoid truthfully detailing his relationship to the facts put in issue—efforts that were promoted by tactics of his counsel that at best can be designated as shabby. To the examiner it seemed that Doyle's protestations as to his patriotism accorded ill with the avowed duty of a citizen to testify fully and truthfully in a proceeding authorized by law, especially one which so involves the public interest.

3. THE ISSUES AND THE NATURE OF THE DEFENSE

A. ALIENAGE OF BRIDGES

No question is made as to the alienage of Bridges. A native Australian, he entered the United States on April 12, 1929, at San Fran-

¹⁵ Counsel for the Government, at the hearing and subsequently, have taken the position that these documents, especially the earlier affidavits of witnesses made before immigration officials, were privileged communications and thus the Government was under no duty to produce them. They rely upon *Arnstein v. United States*, 296 F. 946; *Totten v. United States*, 92 U. S. 365; *Vogel v. Grwaz*, 110 U. S. 311; *In re Quarles and Butler*, 158 U. S. 532. The *Totten* case has no bearing on the issue. The last two cases deal with a different problem, namely the privilege that is accorded public officials to conceal the identity of informants.¹⁶ This is, of course, a recognized privilege based upon the public interest in making access by outsiders to prosecuting officials easy and unembarrassing. See 5 WIGMORE, EVIDENCE, secs. 2374, 2375. It is not an absolute privilege but one whose recognition lies within the discretion of the trial judge. *Marks v. Bryant*, L. R. 25 Q. B. D. 494; *Reg. v. Richardson*, 3 E. & F. 693. The *Arnstein* case, a decision by the Court of Appeals of the District of Columbia, confuses the situation presented by the *Vogel* case with the problem of where such evidence is sought to impeach a witness that the prosecution has already called. That confusion is most marked in the case of *State v. Rhoads*, 81 Ohio St. 397, 91 N. E. 186, the most pertinent authority for the Government's point of view, but a case that has been much criticized. See 4 WIGMORE, EVIDENCE, sec. 2324. Oregon and the Philippine Islands give the doctrine of the *Rhoads* case a measure of support but indicate that the evidence should be produced if the proper foundations for its production have been laid. See *State v. Yee Guck*, 99 Ore. 275, 195 Pac. 363; *State v. Brake*, 99 Ore. 310, 395 Pac. 583; *United States v. Balawat*, 46 Phil. Rep. 385. All the other jurisdictions, where the question has arisen, have refused in the interests of common fairness to permit prosecutors to follow such a policy of concealment. *State v. Guariglio*, 146 La. 949, 84 So. 216; *Riggins v. State*, 125 Md. 165, 93 Atl. 437; *People v. Dacus*, 52 Mich. 569, 18 N. W. 362; *Centoamore v. State*, 103 Neb. 452, 181 N. W. 182; *State v. Archer*, 32 N. Mex. 319, 255 Pac. 306; *People v. Walsh*, 262 N. Y. 140, 186 N. E. 422; *People v. Wargo*, 149 Misc. 461, 268 N. Y. S. 400. The Court of Criminal Appeals in England has given short shrift to the claim that such documents are privileged. *Rex v. Clarke*, 22 Cr. App. R. 58. As Dean Wigmore says, "It seems wiser to stand firm upon ordinary considerations of fairness, and to hold that the prosecution is not entitled at the trial to withhold from the inspection of the accused and the jury any documents or chattels relevant to the case." 4 WIGMORE, EVIDENCE, sec. 2324. Indeed, weightier considerations would seem to underlie the privilege of non-disclosure that attaches to testimony given before a grand jury than to testimony taken in preliminary investigations before an executive or administrative official. But the now universal rule is that a witness may be impeached in any subsequent trial, civil or criminal, by self-contradictory testimony given by him before a grand jury. See cases collected in 5 WIGMORE, EVIDENCE, sec. 2363.

cisco. He filed first papers for naturalization in 1921. Application was made for final papers in 1928 but the application was deemed too late upon the ground that the 7-year period for filing had elapsed. He filed first papers again in 1928, but these were again permitted to lapse. He filed first papers for the third time in 1936. His application for naturalization is thus still pending.

B. ISSUES IN THIS DEPORTATION PROCEEDING

The deportability of Bridges hinges upon the proof as to whether (1) he is (a) a member of or (b) "affiliated with" the Communist Party of the United States of America, and (2) whether, if a member or so affiliated, that party (a) believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States" or (b) "causes to be written, circulated, distributed, printed, published, or displayed written or printed matter advising, advocating, or teaching the overthrow by force or violence of the Government of the United States."¹⁶ Both issues involve findings of fact upon which, if there is any evidence to sustain the findings, the determination of the Secretary of Labor is by law made final. *United States ex rel. Vajtauer v. Commissioner of Immigration*, 273 U. S. 103; *United States ex rel. Bilokumsky v. Tod*, 263 U. S. 149; *Zakonaite v. Wolf*, 226 U. S. 272, 8 U. S. C. § 155. That the finding with reference to the question of Bridges' membership or affiliation with the Communist Party is a finding of fact is obvious. Also it is a question of fact whether the Communist Party of the United States of America as of a particular time¹⁷ falls within the statutory ban of advising, advocating, or teaching the overthrow by force and violence of the Government of the United States is also a question of fact. That many decisions of Federal courts¹⁸ have sustained previous findings of the

¹⁶ Misunderstanding of the statutory basis, upon which the deportation of so-called alien radicals rests seems peculiarly rife. Harper L. Knowles, who was respectively a member for some 4 years of the Special Americanism Committee, the Subversive Activities Commission, and the Radical Research Committee, committees created by the California American Legion, as well as being chairman of two of them, though concerned constantly and actively with the deportation of alien radicals, testified that he thought they could be deported upon the mere ground that they were "undesirable."

¹⁷ *Kessler v. Strecker*, 307 U. S. 22, indicates that the *tacitus possentiae* it gave the alien is also available to the organization. Cf. *Ex parte Fierstein*, 41 F. (2d) 58. The *Strecker* case left uncertain the particular time as of which the facts of membership, etc., have to be proved, though the inference derivable from the opinion is that the significant time is that of the issuance of the warrant of arrest.

¹⁸ The decisions of the Federal courts may be conveniently here classified. The following have, except where otherwise indicated, regarded membership in the Communist Party a ground for deportation. That issue was not always explicitly presented in every one of these cases, though in all of them such membership is implicitly regarded as an adequate basis for deporting the alien.

First Circuit: *Skeington v. Katzeff*, 277 Fed. 129; *Berkman v. Tillinghast*, 58 F. (2d) 621; *In re Saderquist*, 11 F. Supp. 525, aff'd. sub nom. *Saderquist v. Ward*, 83 F. (2d) 890; *Murdoch v. Clark*, 53 F. (2d) 155 (holding membership in Trade Union Unity League ground for deportation).

Second Circuit: *United States ex rel. Vojnicic v. Curran*, 11 F. (2d) 683, cert. den. in 271 U. S. 682, sub nom. *Vojnicic v. United States ex rel. Vojnicic*; *Commissioner of Immigration*, 57 F. (2d) 707, cert. den. in 281 U. S. 607 (this case must be regarded as overruled in regard to past membership being sufficient ground for deportation by *Kessler v. Strecker*, 307 U. S. 22); *United States ex rel. Fernandes v. Commissioner of Immigration*, 65 F. (2d) 593; *United States ex rel. Monnisto v. Reimer*, 77 F. (2d) 1021, cert. den. in 290 U. S. 600; *United States ex rel. Ohm v. Perkins*, 79 F. (2d) 533; *United States ex rel. Abern v. Wallis*, 268 Fed. 413 (S. D. N. Y.); *United States ex rel. Lisafeld v. Smith*, 2 F. (2d) 90 (W. D. N. Y.), belief in Communist party doctrine regarded as sufficient; *United States ex rel. Vajtauer v. Curran*, 15 F. (2d) 127 (S. D. N. Y.), aff'd without consideration of this issue in 273 U. S. 103; *United States ex rel. Fortmueller v. Commissioner of Immigration*, 14 F. Supp. 484 (S. D. N. Y.). Cf. *United States ex rel. Georgian v. Uhl*, 271 Fed. 676.

Third Circuit: *United States ex rel. Boric v. Marshall*, 4 F. Supp. 965 (W. D. Pa.), app. dismissed in 67 F. (2d) 1020, cert. granted in 290 U. S. 623, cert. dismissed upon request of petitioning counsel in 290 U. S. 709 (membership in Trade Union Unity League regarded by the District Court as ground for deportation—a position upon which the Department of Labor reversed itself and for that reason requested the dismissal of the writ of certiorari);

Department of Labor that the Communist Party of the United States of America is within that ban, though persuasive, especially when based upon essentially similar evidence, is not conclusive of the question at the present time. *Strecker v. Kessler*, 95 F. (2d) 976, 96 F. (2d) 1020, aff'd on other grounds in 307 U. S. 22. But cf. *Ungar v. Seaman*, 4 F. (2d) 80. Not only is there the possibility that the characteristics and objectives of the Communist Party of the United States of America have changed, but it is possible, in the light of changing economic and political conditions, to view the type of radical advocacy indulged in by that party as now so indefinitely related to force or violence as to cast doubt upon its appropriate inclusion within the ban of the statute. See *Antolish v. Paul*, 283 Fed. 957, 959. Constant re-examination of the theses and aims of such radical organizations is thus under the statute the responsibility of the Secretary of Labor.¹⁹

C. NATURE OF THE DEFENSE

The alien's response to the charges against him was a complete and unequivocal denial. Not only did he deny that he was a member of the Communist Party but he also denied that he had ever been a member of that party.

Further, the theory of the defense was that the charges made against the alien were the result of a conspiracy, engaged in by persons on the Pacific Coast who were bent upon getting rid of Bridges because of his admittedly militant and radical labor leadership. The most prominent of these persons were alleged to be Harper L. Kitowles, chairman of the radical research committee of the California Department of the American Legion, Capt. John J. Keegan, chief of detectives of the Portland Police Department, together with certain of his subordinates, and Stanley M. Doyle, sometime special agent of the State of Oregon. The evidence as to Bridges' Communist membership and affiliations, it was contended, would prove to be false if inquiry were made into the circumstances under which it was procured.

United States v. Tapolcsayni, 40 F. (2d) 255 (cancellation of naturalization certificate on the ground of membership in the Communist Party).

Seventh Circuit: *Antolish v. Paul*, 283 Fed. 957; *Kjar v. Doak*, 61 F. (2d) 566; *Wermann v. Perkins*, 79 F. (2d) 467 (party not specified in opinion of court); *Gebartus v. Paul*, 3 F. (2d) 145 (deported for distributing literature not specifically named as Communist Party literature).

Eighth Circuit: *Ungar v. Seaman*, 4 F. (2d) 80; *Jurgens v. Seaman*, 25 F. (2d) 35 (concession by counsel that membership in Communist Party is ground for deportation); *In re Sorrell*, 59 F. (2d) 536 (E. D. Mo.) (holding that alien seeking to achieve aims of communism by advocacy of change in government by constitutional amendment is ground for deportation of alien—probably erroneous, for cf. Sibley, J., dissenting in *Strecker v. Kessler*, 96 F. (2d) 1020, 1021: "No one doubts that the economic aims of Communism may be lawfully promoted by a citizen or an alien in the United States, so long as they are sought to be attained by peaceful means. But the advocacy of attainment by force and violence is outlawed, because laying the foundation for treason."); app. dismissed in 62 F. (2d) 1080.

Ninth Circuit: *Kenmotsu v. Nagle*, 44 F. (2d) 953, cert. den. in 293 U. S. 832; *Ex parte Vilariño*, 50 F. (2d) 582; *Brown v. Bonham*, 50 F. (2d) 750; *Saksagansky v. Weedin*, 53 F. (2d) 13; *Wolck v. Weedin*, 58 F. (2d) 928 (affiliation but not membership proved); *Bormunen v. Nagle*, 59 F. (2d) 398; *Greco v. Haff*, 63 F. (2d) 863 (membership in Trade Union Unity League regarded as ground for deportation); *Branch v. Cahill*, 88 F. (2d) 545. Cf. *In re Van Laeken*, 22 F. Supp. 145 (N. D. Cal., denial of citizenship because of sympathy toward communistic doctrine).

The Nova Scotia Supreme Court and the Ontario Court of Appeal have reached the same conclusion on the basis of substantially similar legislation. *Rex v. Buck* [1932] 3 D. L. R. 97; *Re Worozcyt*, 58 Can. Cr. Cas. 161.

The Fifth Circuit reached a different conclusion in *Strecker v. Kessler*, 95 F. (2d) 976, 96 F. (2d) 1020, aff'd without decision on the point of present membership as a basis for deportation in 307 U. S. 22. The High Court of Australia has also been confronted with substantially the same problem. See *King v. Hush*, 48 Comm. L. Rep. 487.

¹⁹ Thus in 1934 the Department of Labor, despite the fact that its prior conclusion to the effect that membership in the Trade Union Unity League was a ground for deportation, had been upheld by the courts (see cases in note 18), upon the advice of its then Solicitor, Charles E. Wyzanski, Jr., changed its policy and directed that thereafter no warrant for the deportation of any alien should be issued solely upon the ground of such alien's membership in the Trade Union Unity League and other specified left-wing labor organizations. See *United States ex rel. Borio v. Marshall*, 290 U.S. 709.

D. SCOPE OF THE INQUIRY AT THE HEARING

It is obvious that testimony to the effect that an individual, unconnected with those officials of the Department of Labor who were responsible for the preparation of the case against Bridges, had offered improper inducements to witnesses to testify against Bridges, would be wholly irrelevant to the issues in this proceeding if these witnesses were never called to the stand. On the other hand, evidence that officials of the Department of Labor who were engaged in the preparation of this case had offered improper inducements to witnesses to testify in this proceeding would be admissible under strict common-law principles, even though those witnesses were never called by the Government (*Allen v. United States*, 164 U. S. 492; *Craig* *dem.* *Annesley v. Earl of Anglesea*, 17 How. St. Tr. 1217; *Egan v. Bowker*, 5 All. (Mass.) 449). The admissibility of such evidence rests upon the ground that a party's fraud in the preparation and presentation of his cause is some evidence for concluding that the cause is a weak or unfounded one. The extent of the inference to be drawn from such evidence "does not apply itself necessarily to any specific fact in the cause, but operates, indefinitely though strongly, against the whole mass of alleged facts constituting his cause" (1 Wigmore, Evidence, sec. 278).

With one exception, to be noted later, no testimony of this nature was adduced which directly involved officials of the Department of Labor. However, much testimony was offered concerning improper inducements made to witnesses by other persons not officials of the Department. The relevancy of all such evidence must rest upon one of two grounds. If the improper inducements were made to persons who were called as witnesses in the case, testimony concerning the making of such inducements and the response of the witnesses thereto, is relevant irrespective of who may have made the inducements (*Commonwealth v. Min Sing*, 202 Mass. 121, 128, 88 N. E. 918). Of course, the mere offer of a bribe is of no consequence if one concludes that such an offer was not only rejected but had no effect upon the witness (*Attorney-General v. Hitchcock*, 1 Ex. 91; cf. *Commonwealth v. Sacket*, 22 Pick. (Mass.) 394).

A second ground upon which the relevancy of improper inducements to witnesses can be predicated stems from the connection that may be shown to exist between the offerors of the inducements and the officials connected with the preparation and presentation of the case. Relevancy here exists irrespective of whether the witnesses have been called to the stand. (Cf. *Nowack v. Metropolitan Street Ry. Co.*, 166 N. Y. 433, 60 N. E. 32.) The degree of connection that must be shown to exist between the offerors of the inducements and the officials conducting the case depends not upon any technical ground of agency but rather upon finding the existence of actual moral connivance between them (cf. *Commonwealth v. Min Sing*, *Supra*; *Winchell v. Edwards*, 57 Ill. 41; *Moore v. Atlantic Coast Line R. Co.*, 137 S. C. 319, 135 S. E. 473).

These principles governed the admissibility of such evidence as was proffered at the hearing. They govern too the weight to be given to this evidence in reaching the ultimate conclusions.

II. METHOD EMPLOYED IN ANALYSIS AND PRESENTATION OF TESTIMONY

The testimony in the case divides generally into two broad fields. The first relates to proof of Bridges' membership and/or affiliation with the Communist Party of the United States of America. The second concerns the principles, theories, tactics, and activities of the Communist Party, especially in regard to its alleged advocacy of the overthrow of the Government of the United States by resort to force and violence. For reasons stated in the prefatory remarks no analysis of this second field has been made.

Testimony relating to Bridges' membership and/or affiliation with the Communist Party, in the main, consists of four different types. The first of these is testimony relating to Bridges' attendance at Communist Party meetings—meetings open only to members of the Communist Party. Attendance at such meetings would, of course, be adequate proof of membership. The second type of testimony concerns alleged admissions by Bridges that he was a member of the Communist Party. The third type consists of alleged conduct by Bridges consistent only with Communist Party membership or with Communist Party affiliation. The fourth type relates to the political and economic beliefs of Bridges which, it is urged, are those held only by members of the Communist Party or by persons affiliated with that party.

It would be possible to break down the mass of testimony that has been offered into the four categories named above. To do so, however, would confuse rather than illumine, for many witnesses gave testimony of more than one type while the challenge as to the credibility of a witness went normally to the whole of that witness' testimony. Adequately to appreciate the nature of these challenges requires understanding not only of the whole of such witness' testimony but also in many instances the setting in which it must be placed. Consequently the method of approach adopted has been that of dealing with each witness' testimony as a whole, together with such independent testimony as puts in issue the credibility of that witness. On occasion, such as in connection with the testimony of John L. Leech or the Magnolia Bluff meeting—occasions where testimony from many witnesses centers about one theme—the attempt has been made to treat a theme as a whole. Conclusions have frequently been reserved until the end. This method, it is believed, gives the best basis for evaluation of the whole testimony.

III. MEANING OF AFFILIATION

The statute proscribes affiliation equally with membership. Clearly affiliation was introduced into the statute to import something less than membership (*Kessler v. Strecker*, 307 U. S. 22, 30). Certainly that relationship with an organization which is equivalent to membership but which may fail to constitute membership for technical reasons can be deemed to come within the meaning of affiliation. Probably this was the main purpose underlying the original introduction of the phrase into the statute.

The degree to which the term embraces more than that conception is left obscure both by the legislative history of the statute and its judicial interpretation. The phrase first appears in sections 38 and 39 of the act of March 3, 1903, 32 Stat. 1213, 1221, which related only to the exclusion of so-called anarchists and the refusal to naturalize them. These sections were offered as amendments on the floor of the Senate. No discussion as to their meaning or scope is contained either in the debates or the conference committee report. The phrase is then carried over without discussion into later legislation such as the act of June 29, 1906, section 7, 34 Stat. 596, 598, the act of February 20, 1907, section 38, 34 Stat. 898, 908, the act of February 5, 1917, section 2, 39 Stat. 874, 875; and the act of October 16, 1918, section 1, 40 Stat. 1012. The act of June 5, 1920, 41 Stat. 1008, added a significant subsection which now appears as 8 U. S. C. section 137 (f) :

For the purpose of this section: (1) The giving, loaning, or promising of money or anything of value to be used for the advising, advocacy, or teaching of any doctrine above enumerated shall constitute the advising, advocacy, or teaching of such doctrine; and (2) the giving, loaning, or promising of money or anything of value to any organization, association, society, or group of the character above described shall constitute affiliation therewith; but nothing in this paragraph shall be taken as an exclusive definition of advising, advocacy, teaching, or affiliation.

That this provision was intended to include those who contributed money or anything of value to such organizations without being members of such organizations is patent both from the words of the enactment and the debates attending the passage of the act. (See 59 Cong. Rec. 1002; H. Rept. 504 and Sen. Rept. 648, 66th Cong. 2d sess.) But further than this the legislative history of the section does not inform.

That the making of contributions to the proscribed organization is sufficient to constitute affiliation would thus seem clear (*Wolck v. Weedin*, 58 F. (2d) 928). Also it seems evident that membership in another organization which in turn is subsidiary to or allied with the proscribed organization would constitute affiliation (*Kjar v. Doak*, 61 F. (2d) 566; *In re Saderquist*, 11 F. Supp. 525, aff'd in 83 F. (2d) 890).

General definitions of the nature of affiliation have been attempted only occasionally. Throughout these attempts is to be found the thought that to constitute affiliation more than mere sympathy is

necessary. Something approaching cooperation with the proscribed organization seems essential.²⁰ Thus the court in *United States ex rel. Fernandas v. Commissioner* (65 F. (2d) 593), speaks of the fact that the alien "has been regularly engaged with well-known Communists in their activities." Similarly Judge Augustus Hand specially concurring in *United States ex rel. Yokinen v. Commissioner* (57 F. (2d) 707, 708), says: "It is enough that the alien Yokinen, by pledging himself to perform certain tasks prescribed by the Communist Party in order to secure reinstatement, must be regarded as affiliated with it." The fullest expression²¹ in this respect is to be found in *Kettunen v. Reimer* (79 F. (2d) 315, 317), where Circuit Judge Chase says:

In deciding this case, we shall not attempt to give a comprehensive definition of the word "affiliation" as used in the statute. Very likely that is as impossible as it is now unnecessary. It is enough for present purposes to hold that it is not proved unless the alien is shown to have so conducted himself that he has brought about a status of mutual recognition that he may be relied on to cooperate with the Communist Party on a fairly permanent basis. He must be more than merely in sympathy with its aims or even willing to aid it in a casual intermittent way. Affiliation includes an element of dependability upon which the organization can rely which, though not equivalent to membership duty, does rest upon a course of conduct that could not be abruptly ended without giving at least reasonable cause for the charge of a breach of good faith. So tested, we cannot agree that there was evidence to establish that this relator was affiliated with the Communist Party. His application for membership would indicate his then sympathy with its aims, but his reconsideration and failure to join shows his unwillingness to let his sympathy control his actions, and there is no proof which shows any mutual recognition that cooperation was to be expected from him.

The language of Judge Chase seems appropriate. "Affiliation" is plainly a word that speaks in terms of a stronger bond than "association." In the corporate field its use embraces not the casual affinity of an occasional similarity of objective, but ties and connections that, though less than that complete control which parent possesses over subsidiary, are nevertheless sufficient to create a continuing relationship that embraces both units within the concept of a system. In the field of eleemosynary and political organization the same basic idea prevails. Thus thinking in terms of affiliation as distinguished from membership must have regard to a bond of this general nature existing, explicitly or implicitly, between the alien and the proscribed organization.

²⁰ Thus in *Branch v. Cahill* (88 F. (2d) 545), being the director of the official Communist paper, being an instructor at the official Communist school, and soliciting funds for the support of the Communist Party was deemed by the Court sufficient to constitute affiliation.

²¹ In an unreported decision, *Tolosky v. Wilson*, (S. D. N. Y.), June 22, 1920, Judge Hand said:

"As to affiliation the case is not so clear, and depends upon how one defines that word. I take it to mean a relation of cooperation between the members of two or more organizations. Perhaps it may also include an irregular connection of a single individual with the society, not amounting to membership. However this may be, it seems to me pretty clear that it involves a mutual recognition of permanent cooperation between the organization and the person affiliated and not a spasmodic or casual assistance. Mere sympathy with the aims of the society, even accompanied by efforts to further its aims, does not fall within that word."

IV. ANALYSIS OF TESTIMONY

1. LAURENCE A. MILNER

A. INTRODUCTORY

Laurence A. Milner is a native-born citizen of the United States who held the rank of major in the Oregon National Guard Reserves. During the World War he was captain of the Headquarters Company, Three Hundred and Forty-sixth Regiment, Ninety-first Division. After the war he became the custodian of the Multnomah Armory. He lost that position in 1933 due to the operation of the Economy Act. In 1933 he was employed by the Military Department of the State of Oregon to investigate subversive activities. This job was created for him as an "easy" job to help him during a period of convalescence. It was originally intended to be merely temporary but Milner was continued in it until 1937.

Milner's operations were of an undercover nature. Pretending to be sympathetic with radical causes, he insinuated himself into gatherings of radicals. He posed very effectively, according to him, as a Communist sympathizer, and thus gained access to their councils. His advocacy of the Communist cause was pronounced. He became chairman of a committee protesting the deportation of one William Baer, a Communist, and in that capacity precipitated for publicity purposes a scene in the immigration headquarters at Portland. He was for a time secretary of the Portland branch of the American League Against War and Fascism, which, according to his testimony in this proceeding, was Communist-controlled. He also testified in behalf of Dirk DeJonge, a Communist tried and convicted under the Oregon Criminal Syndicalism Act—a case that was attended with considerable notoriety. See *State v. DeJonge*, 152 Ore. 315, 51 P. (2d) 674. He also presided at open radical meetings. On one occasion he played an active role as an *agent provocateur* of mob violence. During the 1936 strike he addressed a group upon how a mob could break up a military wedge sent against it to disperse it—instructions that he claimed were later put into effect by strikers in a clash that they had with the Portland Police Department. This speech and his other activities received plenty of publicity and were all indulged in for "build-up" purposes. Indeed, so successful did he seem to have portrayed to others that he was a Communist that his earlier associates shunned him, the American Legion repudiated him, and his former friend, Detective William Browne, of the so-called "red squad" of the Portland Police Department, threatened to beat him up.

Curiously, however, he never became a member of the Communist Party, even though he claimed to be one of two men—the other being a lawyer, Irving Goodman, active in the representation of radical interests—who were admitted to Communist meetings closed to all but

party members. He testified that the excuse he gave to other Communists for not becoming a party member was that he had a claim then pending in connection with his retirement before the Board of Appeals of the Veterans' Bureau and that he was afraid that he would lose out on this claim if the Bureau realized that he had become a member of the Communist Party. This explanation truly puzzles, for every other opportunity that came to Milner of making plain to the world that he was affiliated with the Communist Party was eagerly seized upon by him so as to conceal more effectively his under-cover role. If anything would have aroused the supposed prejudices of the Veterans' Bureau, this open conduct would seem to have been capable of doing so rather than the action of secretly joining the party.

There is no question but that Milner associated constantly with Communists, radicals, and militant labor leaders. An exhibit in the case consists of 77 pages of detailed reports by Milner to his superiors concerning his activities—a portion of some 1,400 reports that Milner made during these years. These 77 pages constituted all those that in Milner's judgment were relevant to the question of Bridges' Communist affiliations. Milner possessed a car and he put this and himself at the disposal of his radical associates who called upon him frequently to drive groups to various meetings. Nothing in his testimony or these reports gives any indication that he ever reached a position of responsibility in any radical organization apart from the chairmanship of the Baer Defense Committee and the secretaryship of the Portland branch of the League against War and Fascism. Indeed, as one ponders his excuse for not joining the party, the conclusion seems inevitable that normally astute leaders in the party would have hesitated upon that ground alone to have thrust responsibility upon him or to have admitted him into their confidence.

B. GENERAL NATURE OF MILNER'S TESTIMONY

Milner's direct testimony with reference to Bridges centers about the times that he drove Bridges to various meetings; his attendance at closed Communist meetings at which Bridges was present, his witnessing of two contributions made by Bridges to the Communist Party, and certain statements made by Bridges. Milner's hearsay testimony relates to statements made by others to him of Bridges' party membership and his attendance at closed Communist meetings. Milner throughout had very little independent recollection of the events to which he testified. He had constantly to rely upon his reports to refresh his recollection. Even this was frequently insufficient so that he was compelled on occasion to read the reports themselves.

C. MILNER'S ACCOUNT OF THE SEATTLE TRIP IN APRIL 1935

Milner's first association with Bridges occurred in April of 1935. Bridges, on his way to Seattle from Portland, had been unable to get plane reservations. So, at the request of Harry Gross, Milner, on April 25, 1935, drove Bridges and Gross to Seattle where Bridges was scheduled to speak at the Labor Temple.²² Gross, a lawyer who is

²² In the car was also a woman who had been picked up at the airport. She was trying to get to Seattle because of the death of someone in her family and had also been unable to get plane reservations. The presence of this woman was corroborated by Bridges. Milner's report for that day, however, makes no mention of her presence.

now dead, does not seem to have been a member of the Communist Party but acted on occasion as legal adviser to the Communist Party and to various radical organizations. Gross was also active among the more militant labor groups in the Pacific Northwest. Milner is very indefinite as to the nature of the conversation that occurred during this 4½-hour trip. His report for that day fails to remark upon any conversation that may have occurred. He testified at one time that the talk was with regard to the Maritime Federation, various activities within the labor movement; and that there also was discussion of the Communist Party activities within the labor movement. Later he said he could not identify that conversation with any particular trip.

After the Labor Temple meeting, Milner repaired with Bridges, Harry Jackson, Harry Gross, Ed Stack, and Henry Schrimpf to a restaurant. Jackson was admittedly²³ a Communist. He seems then to have been a sort of lieutenant for Morris Rapport, the district organizer and the chief Communist official for the Pacific Northwest. Ed Stack, a member of the Marine Firemen's Union of Seattle, was alleged to be a Communist.²⁴ There is no evidence to indicate who Schrimpf was. Milner stated that in the restaurant Jackson asked Bridges for \$25 for the Communist Party, suggesting that Bridges charge this to his expense account. Bridges claimed he could not do this, whereupon Jackson asked Bridges for his dues and Bridges gave him \$2.50, stating that he did not want a receipt. Bridges also is alleged to have said that he would send Jackson the \$25 when he returned to San Francisco.

This story, apart from Bridges' version of the incident,²⁵ seems strange in one particular. Bridges, if he was a member of the Communist Party, would admittedly have been a member of that section of the party that was operating in San Francisco. As such he would have been a member of a different district than the Seattle district. It would be unusual, to say the least, for an official in one district to be collecting dues from a member of the party attached to another district, while that member happened to be casually visiting in Seattle.

D. MILNER'S ACCOUNT OF THE FRACTION MEETING IN PORTLAND IN MAY 1935

Milner again saw Bridges in Portland on May 6, 1935. A convention of the International Longshoremen's Association was then in session in Portland. On the evening of that day he testified that he drove Bridges, Gross, Schmidt, John Shoemaker, and Wolff to a Communist fraction meeting²⁶ held at Henry Ireland's residence in Port-

²³ The term "admittedly" is used when this fact is admitted by both sides.

²⁴ Bridges could recall no "Ed" Stack, but did recall a Walter Stack, who he believed was the man referred to by Milner. Walter Stack was admittedly a Communist.

²⁵ Bridges testified that his acquaintance with Jackson went back to 1932, when Jackson was an organizer for the Marine Workers Industrial Union. Jackson's activity in this union resulted in his being blacklisted by the waterfront employees. This left him little means of support. Bridges testified that he frequently gave Jackson a few dollars when he was hard up, a common custom among seafaring men.

²⁶ The term "fraction meeting" was frequently used by various witnesses not always with the same significance. It can, in general, be understood to apply to a meeting of a group of Communists, closed to all except party members. Those attending are usually more than mere rank and file members of the party. As the significance of the members who attend increases, there comes a point where the "fraction meeting" is referred to as a "top fraction meeting." Other than this difference, the record leaves blurred the line of distinction between the two types of meetings.

land.²⁷ At this meeting were Jackson, Fred Church,²⁸ Ireland, and four other men whose names Milner could not obtain. Those present canvassed the attitude of the delegates at the Convention to the proposal that Bridges should be made the president of the International Longshoremen's Association. Various members were assigned to contact doubtful delegates to line them up for Bridges.

Jackson, according to Milner, announced that all Communist Party delegates to the Convention had been assessed \$2 for Convention purposes and proceeded to collect that sum from those present including Bridges. Milner also testified that Bridges during the meeting stated: "Wouldn't the bosses like to catch him (*sic*) attending such a meeting."²⁹

E. MILNER'S ACCOUNT OF THE COMMUNIST MEETING IN SEATTLE IN JULY 1936

Milner testified to a second closed Communist meeting that occurred on July 12, 1936. On July 9 Milner again drove Bridges to Seattle. Gross and Mat Meehan³⁰ accompanied them on this trip. During the trip Bridges and Gross, according to Milner's report, discussed some Communist faction meetings that they had attended in Hollywood under the sponsorship of moving-picture actors such as Robert Montgomery, Frederic March, and Miles Stannard.³¹

During the day of July 12, Bridges was admittedly engaged in counting ballots at the headquarters of the International Longshoremen's Association in Seattle. Milner states that at 4 p. m. he and Gross drove Bridges to Rapport's apartment where they were joined by Harry Jackson and Ed Stack. Here they discussed certain tactics of Lundeberg, of the Seamen's Union, which were being opposed by Bridges. The Communist Party was said also to be opposed to Lundeberg's tactics. Plans were laid by the group to discredit Lundeberg. Also they discussed the agreement which was to be put before the shipowners on September 30. In connection with this Rapport stated that the Communist district organizers for the San Francisco and Seattle districts had been instructed to call a conference to draft the demands that the new agreement should contain. Bridges agreed to the calling of such a conference late in July at Grant's Pass in Oregon, half way between San Francisco and Seattle, at which he would be present.

Milner in his report suggested to his superiors that, if they would get Colonel Jones, a military intelligence officer of the United States Army stationed in San Francisco, to keep a close watch on Bridges

²⁷ Schmidt was alleged to be a Communist by Milner and others. John Shoemaker, sometimes spelled Schomaker, was admittedly a Communist. Wolff and Ireland were alleged by Milner to be Communists. Nothing else appears as to the character of these two men save that Bridges denied knowing Ireland.

²⁸ Nothing appears to indicate who Fred Church was save the inference from Milner's testimony to the effect that he must have been a Communist because of his presence at this meeting.

²⁹ Bridges had no memory of any such meeting. He stated that during the Portland convention he attended many labor caucuses called to discuss problems as they cropped up at the convention. He testified that he had never attended any meeting with Milner. He had ridden with Milner several times and believed that Milner was Gross' chauffeur.

³⁰ Mat Meehan was the secretary of the International Longshoremen's Association. Milner alleged that he was a Communist.

³¹ These three men were thus inferentially regarded by Milner as Communists. There is no other evidence to that effect. Bridges stated that Montgomery was once the president of the Screen Actors' Guild, and that he had had occasion to discuss trade-union matters with both Montgomery and March. The reference to Miles Stannard is probably to Lionel Stander.

during the latter part of July, proof of Bridges' Communist affiliations might be forthcoming. No evidence is in the record to indicate whether this meeting at Grant's Pass ever took place.

The Rapport meeting ended at about 7 p. m.²² Milner then drove Gross and Bridges back to headquarters where the counting of the ballots was taking place. Milner testified that they Bridges took up a bundle containing about a thousand ballots that had come in from Oakland, laughed and stated that by the looks of them they had been made out by the same man with the same pencil and were all, except two or three, marked for Bridges and Meehan. "That is the result you get," Bridges said, according to Milner, "when you have a secretary and president heading an organization." Milner's understanding of this remark was that it meant that with a Communist president and Communist secretary heading an organization tactics of this character would be employed to maintain Communist domination of the organization.

F. MILNER'S TESTIMONY ON BRIDGES' COMMUNISTIC REMARKS

Milner testified to two general remarks made by Bridges which were proffered as evidence tending to indicate Bridges' Communistic affiliations. At one time when Milner, Gross, and Bridges were together and while they were overlooking United States battleships in Portland harbor, Bridges stated: "We will see a day when we can sink those 'damn' things because they are the enemy of the workers." Milner could not date this conversation except to state that it happened during fleet week. His reports contain no record of the incident.

At another time, when Milner was driving Bridges and Gross to Seattle, he stated that Bridges informed him that his work-out squads in San Francisco took good care of all opponents of the Communist Party by having them beat up, destroying their homes, and employing other methods of driving fear into the weaker workers of the waterfront. Milner's reports again carry no record of such a remark having been made by Bridges. His report for September 23, 1934, however, carries an account of a speech made by Jackson at a Communist meeting where Jackson stated that the Communist Party in San Francisco during the 1934 strike organized riot squads assigned to duties of the type described above.

G. HEARSAY TESTIMONY GIVEN BY MILNER

Though the other testimony of Milner with regard to Bridges' affiliations is hearsay, it deserves examination. Milner stated that Gross had told him that Bridges was a Communist. This particular statement is not buttressed by any evidence as to the basis upon which Gross rested his conclusions. Milner also testified that he had been told by Rapport, Gross, and Jackson (evidently on separate occasions) that

²² Bridges' testimony with reference to this alleged meeting is that no such meeting occurred. He testified that he first met Rapport in 1937 at the Longshoremen's Convention in Seattle. He testified also that on July 12, 1936, he was at union headquarters until 5:30 p. m., counting ballots. The minutes of the executive board meeting for July 12, 1936, were introduced in evidence to support Bridges' testimony in this respect. They read as follows: "The executive board [of which Bridges was president] met at the district office to recheck district ballots. All were present, working from 10 a. m. until 5:30 p. m., with 1 hour off for lunch. Matt Meehan, Dist. Sec'y J. L. A." These minutes were read and approved at the next day's meeting.

no Communist was to speak to or recognize Bridges in public while he was in the Northwest because the Communist Party did not wish the public or officials to see Bridges having any contact with members of the party. None of these statements were identified by the place, time, or circumstances of their utterance.

A further incident concerns the Maritime Federation Conference in San Francisco in 1935. Milner drove four delegates to this conference from Portland. They were Jackson, Ed Stack, Kraterly, and T. J. Johnson.²³ On August 10, 1935, a meeting of the Communist delegates was held. Milner stated he could not attend this because the San Francisco Communists insisted upon admitting no one but party members. His story of the meeting is derived from Ed Stack. The meeting was called to present a program to the Conference at its general meeting. At this meeting Bridges was stated to have been present.²⁴ Milner in his report gives the details of the program that was agreed upon. That program was adopted the next day at the general meeting and according to Stack and Jackson would result in giving the Communist Party control of the Pacific Coast waterfront. The program as such seems outwardly to be that which would be proposed by a militant labor union.²⁵

H. FALSE TESTIMONY ADMITTEDLY GIVEN BY MILNER

This summary includes all that seems relevant in Milner's testimony with the exception of the exposure that Milner gave false testimony in the DeJonge trial and also on the witness stand at this hearing. It is necessary to detail this at length. It thrusts deep and, because it portrays Milner as a man who has no regard for an oath, it tends to discredit every utterance made by him.

²³ Kraterly and Johnson were alleged to be Communists.

²⁴ Milner's testimony is confused with reference to another Communist meeting he alleged was held on April 11, 1935, at 11 p. m. His reports speak of a conference of the rank and file delegates held at Redman's Hall at that time at which 145 members were present. In his oral testimony he alleged this to have been a meeting of the Communist delegates, the question being specifically asked him by the examiner. This seems highly improbable in that at an admittedly non-Communist meeting of the general rank and file delegates Milner reports only 47 as being present. Milner attended the 1-p. m. meeting but on his own statement he was excluded from all Communist meetings in San Francisco. This incident typifies the general inaccuracy and lack of independent recollection that characterized Milner.

²⁵ The program had nine points. They are as follows:

"First, that the rank and file delegates upon their return home will immediately work with their unions for a favorable vote not to handle seab cargo. This would show a solidarity in support of the Vancouver, B. C., strike."

"Second, that Harry Bridges, Harry Lundberg, and Patty Morris tour the Pacific coast and explain to the workers what happens at the Washington Conference. This tour should include Vancouver, B. C., and should start after the Seamen's Conference, which will be held in San Diego August 15."

"Three, that the Maritime Federation set up a speaker's bureau whose duty it would be to inform all workers of their rights and duties, especially as to the rank and file control."

"Four, that the Voice of the Federation and leaflets be sent to the East Coast and Gulf ports to keep the rank and file informed as to the gains made in working conditions and the rank and file control of this coast."

"Five, that leaflets be sent to all unions and workers in the interior which will give them the true conditions of the water front and appealing to them to support the Maritime Federation Workers."

"Sixth, that key men be placed on all ships to organize the rank and file of each ship so that if a strike comes, the workers will be well prepared."

"Seven, that Labor Day be known as a day of struggle, organization, and protest, and that this go into effect in 1937. Due to the shortness of time when parades are held this coming Labor Day in which politicians and police will take part, workers when passing reviewing stands will turn their faces in the opposite direction."

"Eight, that all members of the International Longshoremen's Association will work in their various locals to stop the agitation against San Francisco."

"Nine, that delegates work within the various locals spending propaganda for the organization of a Labor Party."

On the afternoon of the first day that Milner was on the stand, his direct examination having been concluded, he was cross-examined with reference to the testimony he had given in the DeJonge case. After rehearsing some of it, he was questioned as to whether he had spoken the truth at that trial. Over and over again he testified that he had.³⁶ At the same time he told of how Stanley M. Doyle, then special prosecutor for the State in that case, had approached him and tried to induce him on the evening of the day that he testified to change the testimony that he had given. Milner stated that Doyle had suggested that if Milner changed his testimony Doyle would procure him a job and would help him get his retired pay back from the Veterans' Bureau. Milner said that he refused to accept Doyle's suggestion because he had immediately taken an indefinable aversion to Doyle. Milner continued to refuse later to work with Doyle or to give him any information even though he had admitted to Doyle at his first meeting that he was an under-cover operator working for the State.³⁷ He continued to reject Doyle's proposal, he stated, because he distrusted Doyle and disliked his methods.

On the afternoon of the second day Milner was confronted with his testimony in the *DeJonge case*. That disclosed that he had testified that he did not know DeJonge was a Communist; whereas in this proceeding he testified that he had known DeJonge was a Communist some 4 months prior to that time. In the *DeJonge case* he also testified that he was not working. He again testified there that the American League against War and Fascism was not affiliated with the Communist Party; in this proceeding he testified to the contrary.³⁸ In the *DeJonge case* he was recalled to the stand after he had originally testified and after he had been approached by Doyle. He then testified in that case that Doyle had talked to him during the interval but had never suggested to him that he should change his testimony. He testified to the contrary in this proceeding.

Milner was thus forced to admit that much of the testimony that he gave in the *DeJonge* trial was deliberately false despite the fact that he testified the day before repeatedly that that testimony was true. He explained that he had testified falsely in the *DeJonge* case in order to build himself up as a good Communist sympathizer among his new associates. He justified his admitted lying upon the basis of

* The following are the pertinent questions and answers:

"Q. Did you tell the complete truth in your testimony in that case?

"A. I did.

"Q. You are sure of that?

"A. Yes.

"Q. When you testified how long you had known DeJonge, and what his home life was, you told the entire truth, is that true?

"A. As far as I knew him.

"Q. Well, did you say something that you didn't know to be a fact?

"A. No.

"Q. Every bit of your testimony in that case was true, is that correct?

"A. As far as I know.

"Q. As far as you knew at that time it was?

"A. Yes.

"Q. Is that correct?

"A. Yes."

* There are several curious angles of this testimony. Milner was always very secretive about his work. Browne of the Portland detectives, who was engaged in the investigation of subversive activities, according to Milner, believed Milner to be a Communist. But Milner admitted his connections with the State Military Department immediately to Doyle when Doyle asserted that he had learned from the Portland police who and what Milner was. Secondly, although Doyle at their first meeting knew that Milner held an official position with the State as an under-cover operator, Milner testifies that Doyle's inducement to him to get him to change his testimony was, in part, the offer of a job.

* His efforts to reconcile these two statements were lame and unworthy of credence.

a creed which he stated as follows: "I considered it my duty as a military intelligence officer to do anything to gain my purpose without being disclosed."

However one may view this as justification for perverting the machinery of justice, Milner's justification for the giving of that false testimony gives no excuse for his continuing that same practice in this proceeding. Nor does it explain the false testimony that he gave in the DeJonge trial regarding the attempted subornation of Milner by Doyle. For Milner would have aided his Communist "friends" by disclosing Doyle's efforts to tamper with a witness. Denying the effort helped the prosecution not the defense. Indeed, Milner seems at the DeJonge trial to have testified falsely to help himself by helping his Communist "friends" and at the same time to have testified falsely to suppress important evidence that might have benefited DeJonge. In this proceeding he testified falsely to avoid disclosure of the fact that he had done so before.

I. CREDIBILITY OF MILNER

Milner's testimony in this proceeding is deserving of little, if any, credence. His reports, his oral testimony both fail to convince that he was either careful in his observations or acute in his perceptions. These reports disclose an under-cover operator anxious to flood his superiors with information regardless of its relevancy or accuracy. Milner in these reports and on the stand exhibited a lack of appreciation of the nature of evidence upon which conclusions to be valid must rest. The incidents he recounts either fall apart on examination or lack that proof that carries conviction. His reports indicate also a definite bias against labor-union activity and a viewpoint towards that activity that makes his work, when judged from his reports, smack of mere labor espionage. His spectrum provides no measurement for distinguishing labor-union activity from communism.

Milner's deliberate giving of false testimony in this proceeding as well as in the DeJonge case is enough in itself to destroy any belief in his credibility. *Falsus in uno falsus in omnes* is not of universal applicability, but it is a valid rule of inference where the falsehoods are both deliberate and significant. Milner can best be dismissed as a self-confessed liar, a man who has admittedly tried twice—once successfully—to make falsehood parade as truth.

2. THE INCIDENTS TESTIFIED TO BY JOHN L. LEECH

A. INTRODUCTORY

John L. Leech was born in Toledo, Ohio, where his father pursued the painting and decorating trade. In 1921 or 1922, when about 19, he was found guilty of forging a postal money order for a minor sum and was sentenced to an hour's detention in the custody of the marshal. He testified originally that he came to California in 1929.³⁰

³⁰ Leech's original testimony on this was very specific.

"Q. Why is there any doubt in your mind as to when you left Toledo, then?"

"A. There is no doubt."

"Q. All right. Then you left Toledo in 1929 and you lived there from the time you were arrested until 1929. Is that correct?"

"A. I lived in Toledo during—or the vicinity—during that entire time; yes, sir."

but later, being confronted with relief records that showed he had claimed to have come there in 1924,⁴⁰ he claimed that his "last unbroken period of residence in Los Angeles was from 1929" and that that was the meaning of his original statement.⁴¹ He pursued the painting and decorating trade in Los Angeles but with success that was not only meager but inconsequential. Meanwhile he had acquired a family. At the time he testified in this proceeding he had 7 children, the oldest of whom was 15 and the youngest a mere babe in arms. Going on relief in 1929 he joined Local No. 4 of the Relief Workers Protective Union in Los Angeles, met some Communists among their ranks and sometime thereafter joined the Communist Party.⁴² A hint of the conditions against which Leech had to struggle is revealed in the testimony of his one-time friend, Bundy. Their first meeting dates back to the fall of 1933,⁴³ when the county police burned one of the mushroom-like collections of shacks in which the California unemployed lived. This particular collection went by the name of Hooverville. Leech with his wife and children lived in this "city" before they were driven out by the action of the police. That under these conditions Leech should have supported the Communist Party is not surprising.

Leech as a Communist forged ahead in the ranks. He became in turn literature agent, subsection organizer, organizational secretary of the Los Angeles section and county organizer. He also was a member of the California State Committee of the Communist Party from 1934 to 1936. For his work for the Communist Party he originally testified that during 1934 to 1935 he received \$10 a week and in the middle of 1936 he was advanced to \$20 a week. He did no work other than this; nor did his wife or children supplement his earnings in any way. According to his original testimony, he eked out this \$10 a week by obtaining relief until 1936 from the County of Los Angeles.⁴⁴ When that relief was stopped in 1936, his wages from the Communist Party were increased to \$20 a week. Leech ran as the candidate of the Communist Party for the State Assembly in 1934 and for Congress in 1936. He was thus during these years an open and avowed Communist and known as such to the police authorities.⁴⁵ His Communist Party name was John A. Lewis.⁴⁶ Leech's theoretical grasp of communist doctrine was more than ordinary. He used its political vocabulary with fluency⁴⁷ and with considerable accuracy.

⁴⁰ Leech first went on relief "to the very best of my [his] recollection" late in 1929.

⁴¹ Counsel for the alien received from one witness hearsay testimony that during 1929 Leech had been in jail. A check made with the help of the Federal Bureau of Investigation and the Utah Penitentiary failed to disclose any such incident.

⁴² Leech placed the time of his joining as September, 1931. Bundy states Leech joined a week after the Hooverville incident.

⁴³ Leech placed the beginning of this friendship in 1932.

⁴⁴ Not only was Leech dogged by poverty but also by misfortune. In 1932 his daughter Thelma was burned severely from waist to foot at a neighbor's bonfire. This necessitated continuous hospitalization until 1937 and Thelma had some 30 operations performed upon her. Leech himself giving his daughter of his skin and his blood. These same years also witnessed collarbone fractures on the part of another daughter and one son.

⁴⁵ During these years Leech was arrested several times for taking part in demonstrations, alleged rioting and the like. None of these charges seem to have been pressed. He was arrested in 1934 or 1935 during a raid upon a liquor establishment where he had gone to get a drink, found guilty and fined \$20. The sentence was, however, suspended.

⁴⁶ The practice of Communists assuming fictitious names for Communist purposes seems to have been quite current on the Coast. The purpose was undoubtedly to make seizure of Communist records thereby less illuminating to the police, for it must be remembered that during some of these years the advocacy of Communist doctrine was a criminal offense under State laws.

⁴⁷ Leech was afflicted with verbal haemophilia. It seemed impossible for him ever to answer straightforward questions simply. Much of this was equivocation following upon Leech's being caught in earlier misstatements; much of it flowed from a curious pretense to knowledge about totally irrelevant matters; much of it, however, sprang merely from a habit of using 10 words where 1 would have sufficed.

In the middle of 1937 Leech was expelled from the Communist Party. Originally he claimed that he had resigned from the party on November 6, 1936,⁴⁸ which would have been 3 days after his congressional defeat. He stated that he then resigned upon his own volition, but that he continued to be listed by the Communist Party for some time thereafter as a member of the party. He stated that the reasons that impelled him to resign were his desire to be relieved of the burden of work that membership entailed and also his growing conviction that the Communist Party was not sincerely interested in helping the mass of American workers but contrariwise was playing upon their desires to help itself.⁴⁹ He later explained that this was not a resignation but a "release," that he had made a request for a release of the State executive committee which had granted it with the proviso that he continue to be active for 1 week after November 6.⁵⁰ He then further explained the discrepancy thus apparent between his original and his later statement by admitting that he remained technically a member of the party. He even admitted that at the time that he had communicated with the Communist Party he suggested that he would be willing to take a transfer to the Denver section⁵¹ of the party.⁵² Leech claimed never to have received notice of his expulsion from the party, saying that even now, despite the fact that he had heard reports of it, he did not definitely know he had been expelled.⁵³

The action of the Communist Party expelling Leech, the report of which incidentally gives in parenthesis his party name of Lewis, took place on April 22, 1937. The report of this action is published in the *Western Worker*, a Communist organ, for June 24, 1937.⁵⁴ It corroborates the fact that prior to that time he had sought to resign.

⁴⁸ His insistence upon having "resigned" fails to conform exactly with his own testimony that when a man joins the Communist Party he formally continues to be a member until expelled and the party emphasizes this lifetime membership in its induction of new members.

⁴⁹ Leech made no reference to difficulties connected with his Congressional candidacy as a reason for his resignation.

⁵⁰ This helps to explain a later statement of his that he resigned on November 13 rather than November 6.

⁵¹ At one time Leech even stated that after November 1937, he had gone to Denver for about 2 months on an assignment from the Communist Party. This, however, was many days later after Leech was recalled to the stand to explain discrepancies between his testimony and the relief records.

⁵² Each succeeding explanation by Leech of his severance of his relationship with the Communist Party adds to one's confusion. One is tempted to assume that Leech's purpose for these successive and cumulatively complicated explanations derived from a desire to conceal something, but there is no testimony other than the so-called findings of the State executive committee of the Communist Party to even permit one to make a guess as to what it might have been. Those findings have, of course, no evidentiary value.

⁵³ Leech's testimony as to when he first heard of his expulsion is far from clear. On direct examination he stated that when Browne visited him about June 24, 1937, Browne seemed to be in possession of this information. On cross-examination Leech forcibly stated twice that he heard of his expulsion first when Doyle visited him, a visit that took place more than a month later.

The following account of Leech's expulsion from the Communist Party is contained in a letter sent on July 15, 1937, by Captain Hynes of the Los Angeles Police Department to Harper L. Knowles:

"Suspicion of Leech's integrity and sincerity as a Communist, first arose some months ago, and investigation of his activities was launched. He is a painter by trade and incurred the disapproval of the party when he was found to be scabbing. Nonparty persons protested to the party at the time that this discovery was made, but no action was taken then, as the party wished to build up its case against Leech before exposing him to the public. Although there was some suspicion among the Los Angeles leaders that he was a spy, no positive evidence could be found. However, other charges provided the necessary excuse for expelling him from the party."

⁵⁴ The report of the State executive committee's action recites that Leech had been expelled as "an unreliable and irresponsible individual, whose actions and conduct have been such as to raise serious suspicion and doubts as to his loyalty to the working-class movement. He was deceptively bureaucratic in his party work, disregarding and distorting committee decisions, antagonizing comrades against each other by talking to one against the other, and vice versa; neglecting his work and then lying about it. He was closely involved in the financial machinations of Seymour Robbins (Stanley Lawrence) and joined the latter in reprehensible schemes of practically trying to blackmail people for financial

B. GENERAL NATURE OF THE LEECH TESTIMONY

Leech's testimony with reference to Bridges can best be examined by starting from a summary of that testimony set forth in an affidavit made by him on August 30, 1937, at Portland, Oreg., in the presence of Immigrant Inspector Wise, Stanley M. Doyle, Detectives Walter B. Odale and Clifton H. Watson of the Portland Police Department, and his wife, Mary Leech. The affidavit recites that he attended two meetings organized by the California State Committee of the Communist Party at which Bridges was present, and also an enlarged meeting of the California District Committee at which Bridges made a report relating to the coming crises in the maritime strike situation. This enlarged meeting occurred in January or February of 1936 at Redman's Hall in San Francisco. The affidavit also states that Bridges went under the party name of Rossi,⁵³ that Leech had been introduced to Bridges as Rossi, and that Bridges as Rossi had been proposed as a member of the Central Executive Committee of the Communist Party to the nominating committee at the national Communist Party convention in New York City in June of 1936.⁵⁴ Leech also asserts in this affidavit that after his original contact with Detective Browne of the Portland Police Department—the man who had first sought to elicit what information he had about Bridges—two Communists, Louis Barron and George Shaffer, accompanied by an attorney, Spencer Austrian,⁵⁵ had asked him to "make a statement and sign an affidavit"⁵⁶ denying that he knew or believed Bridges to be a member of the Communist Party; that he had signed "this statement," but that it was false; that he had done so "because of an unconscious reaction to the discipline of the Communist Party to which I had been previously subjected, and because I feared that my refusal to make such a statement would work personal hardship and danger to myself and family."

C. LEECH'S ACCOUNT OF THE ENLARGED DISTRICT COMMITTEE MEETING IN 1936

The circumstances of the enlarged district committee meeting, as detailed by Leech, are herewith summarized. The meeting occurred either in January or February of 1936 in Redman's Hall. The Los Angeles delegation, after arriving in San Francisco, were directed to proceed to the Hub Restaurant, where they were met by a squad captain and conducted to the hall. Some 50 members were present, among whom, besides Bridges and Leech, were James Thorne, M. Pelman, Eva Shaffron, Rudie Lambert, Louis Barron, Pettis Perry, Paul Alexander, Stanley Hancock, one Richardson, William Schneiderman, the district organizer for the San Francisco district,⁵⁷ Lawrence Ross, E.

and other means of leaving the United States of America for some foreign country. He made mysterious trips without informing the party, lied about reasons for his resigning and asking for a transfer to another district, and secretly returned to Los Angeles after going to Denver, avoiding the party ever since."

⁵³ Rossi is the name of the then mayor of San Francisco.

⁵⁴ Leech did not claim Bridges was present at this convention.

⁵⁵ Leech in his affidavit did not affirmatively state that Austrian was also a member of the Communist Party. He made that definite statement later, a statement that Austrian contradicted.

⁵⁶ Italics are the Examiner's.

⁵⁷ Some confusion exists on the record as to the extent of the San Francisco district and the Seattle district. Leech put California, Oregon, and Nevada in district 13. Communist membership books from Seattle indicate that that district is district 12.

"Pop" Hanoff, George Maurer, John Broman, one Schoemaker (probably not John Shoemaker), and one Saunders.⁶⁰ Bridges, introduced as Comrade Rossi, made a report at the meeting on the impending crisis in the maritime situation. He left shortly thereafter.

D. LEECH'S ACCOUNT OF THE COMMUNIST MEETING IN MAY OF 1936.

The second closed Communist meeting at which Bridges was alleged to be present occurred 3 or 4 days before May 31, 1936, the day of the holding of the annual State convention of the Communist Party in San Francisco. This was, according to Leech, a meeting of the State committee. It was held in San Francisco at Hanoff's office on 121 Haight Street, the general headquarters of the Communist Party. Those present were William Schneiderman, Betty Gannett, Hanoff, Lawrence Ross, George Maurer, Bridges, and Leech.⁶¹ Originally Leech said that this meeting discussed and determined to submit Bridges' name to the nominating committee of the national convention that was to be held late in June of 1936 in New York as the California choice for a member of the central committee. Bridges, according to Leech, was elected.⁶² The next day, still on direct examination, in rehearsing this meeting he stated that the business of the meeting concerned the preparation of agenda for the forthcoming State convention, making no reference then to the Bridges nomination. Shortly thereafter Leech again referred to the business of this meeting and again made no mention of Bridges' candidacy, even though he was specifically asked the question whether Bridges participated in the discussion.⁶³ To that he replied: "I would not attempt to say what part Bridges took."

E. LEECH'S ACCOUNT OF A THIRD COMMUNIST MEETING

The third meeting occurred also in San Francisco, but Leech was unable to identify the place of the meeting other than that it was somewhere in the residential section of the city, nor could he place its date, except that he believed it had occurred about the time of these other two meetings. At this meeting Leech placed Schneiderman, Gannet, Ross, Bridges, and himself. The purpose of the meeting was to prepare for a later meeting that was to be held in Sacramento to urge the repeal of the criminal syndicalist laws.

⁶⁰ Of those named, Leech, Perry, Hancock, Richardson, Schneiderman, Ross, Maurer, Broman, and Saunders appear as members of the State committee of the Communist Party in the official roster published pursuant to the election laws by the State of California on September 26, 1936. Lambert appears as such in the roster of September 20, 1934. Hanoff was alleged by Leech to have been district organizational secretary and was at one time acting district organizer. Eva Shaffron was said to be organizational secretary to the Communist Party in Los Angeles. Thorne was said to be a member of the Los Angeles section committee of the Communist Party. Paul Alexander was said to be organizational secretary of the San Diego section of the Communist Party. Barron was alleged to have been a member of the Los Angeles section of the Communist Party and also president of the Furrier Workers Union in Los Angeles. Barron ran as a Communist candidate for Congress in 1938.

⁶¹ Leech, Schneiderman, Gannett, Ross, and Maurer appear in the State published roster of 1936 as members of the State committee. Hanoff does not appear as such in the rosters of 1934, 1936, or 1938. He was, however, admittedly a Communist. On December 5, 1930, Hanoff was found to be a Communist and a warrant for his deportation was issued. Nothing appears as to why this warrant was not executed.

⁶² None of the other ex-Communists who testified to Bridges being a Communist ever made mention of his having held this important office.

⁶³ That the New York convention was present to Leech's mind is obvious from his reference on this occasion to the fact that the meeting discussed the election of delegates to the New York convention.

F. THE ISSUE PRESENTED BY THE LEECH TESTIMONY

Bridges denied that he had participated in these meetings, stating that he could not remember ever having seen Leech prior to this hearing. Bridges also stated that he was in Los Angeles attending a convention from May 4 to about June 10, 1936, and that therefore it would have been impossible for him to have attended the May 31 meeting.⁶⁴ But no record evidence to this effect was produced. Indeed, such evidence as might normally be available would hardly convince, for, due to the proximity by air and train of San Francisco to Los Angeles, it could not exclude the possibility of a brief visit during this time to San Francisco. Counsel for the alien thus chose to attack Leech's testimony generally. To appreciate the weight of this attack on Leech's credibility, it is, necessary to relate the circumstances surrounding the meetings of Leech with Browne and Doyle, and his giving of a statement denying that he knew Bridges was a member of the Communist Party.

G. LEECH'S ACCOUNT OF THE BROWNE VISIT AND OF THE LEECH
"AFFIDAVIT"

Leech's version of these incidents, as he reviewed them upon his first appearance upon the stand, will first be summarized. Browne came to Leech's home in Los Angeles on a day in the latter part of June 1937. Leech was not home at the time, because, as Leech definitely stated, he happened to be at work. When Leech came home, some time after 4 p. m., Browne again reappeared. He drove up to the house in an automobile, which he parked on the other side of the street. Browne identified himself as a member of the Portland police department and Leech invited him into the house. Browne stated that he was there by the authority of Capt. John J. Keegan, the chief of detectives of the Portland police department. Browne and Leech talked in the sitting room, Mrs. Leech being present for part of the time and the children running in and out. Browne asked Leech to give him information about Bridges' political affiliations and political activities. Leech admitted that he told Browne generally that he believed Bridges to be a member of the Communist Party, but that he would not give Browne specific information on that subject because among other reasons he didn't want to jeopardize his

⁶⁴ Bridges originally stated that his recollection of the time of his return to San Francisco would put it in the neighborhood of June 20. Counsel for the Government produced evidence which clearly put Bridges in San Francisco on June 13. The reliance of counsel for the alien, however, was throughout upon the falsity of the Leech testimony rather than an alibi.

"Leech was very indefinite about what he told Browne. The examiner in order to clear up his mind on this point broke in upon the cross-examination of Leech to have the following colloquy with him on July 14:

"Q. Therefore, you would say, then, that the appropriate inference to be taken from your remarks with Browne would be that you knew something but what it was; whether it indicated that Harry Bridges was a member or whether it indicated that Harry Bridges was not a member, could not have been deduced from your statements?

"A. Yes, sir, I believe that is correct.

"The EXAMINER (continuing). I am sorry [to interrupt]. Mr. Grossman, but I wanted to get that clear on the record.

"On July 17, at the conclusion of Leech's redirect examination, further testimony of Leech having left this matter in doubt, the examiner again questioned Leech:

"Q. Then . . . you did not disclose information to Mr. Browne?

"A. Not any concrete or specific information, but to the effect that I did know and believe Mr. Bridges was a member of the Communist Party.

"Q. Just general information?

"A. Yes, sir, general, very general."

family. Leech denied that he was on relief at the time of Browne's visit and was very positive that Browne had not discussed the question of whether Leech had been receiving relief illegally. Browne urged Leech to turn his back on the Communist Party and told him he could arrange for Leech to go up to Portland, there give an affidavit to the immigration authorities, and return to Los Angeles, Browne paying the expenses for this trip. Leech refused to cooperate and Browne thereupon left. Leech denied that Browne had ever offered him money to testify against Bridges.

Shortly thereafter⁶⁶ Leech told his friend Bundy of Browne's visit. Bundy was also a Communist and at that time he and Leech were working together. Bundy, Leech stated, relayed the story of Browne's visit to the Communist Party. As a consequence of that Barron, Shaffer, and Austrian called upon him one evening. Bundy was also with them but he did not get out of the car. Leech was not in when they came and Mrs. Leech refused to admit them. They sat in front of the house in their automobile and a few minutes thereafter Leech appeared. He admitted them to the house and they insisted that he should sign a statement to the effect that he had no knowledge that Bridges was a Communist. This he agreed to do fearing some sort of reprisal if he refused.

Barron, Shaffer, and Austrian returned the next evening as it was getting dark. Leech met them outside. His wife and children were sitting on the front porch. The three men did not get out of the automobile. Leech talked to them a few minutes, scanned the statement that they had brought and signed it. He placed the statement against the automobile when he appended his signature to it. He was given a copy of the statement that he signed. Leech was positive that he made no alteration in the original statement but simply signed it. He was positive also that he was not asked to swear to its truth and that it therefore was not an affidavit.

Leech kept the copy of the statement and later produced it at the hearing.⁶⁷ Asked to describe it, he said it was "approximately one-half page in length" and again "not in excess of a half to three-quarters of a page long at the most." The statement consists of two pages, the signature being at about the middle of the second page. Leech's memory of its content was also vague. He stated that it recited that he had been approached by Browne, that Browne had offered him a sum of money to give testimony against Bridges, but that he had no knowledge that Bridges was a Communist. This was all that Leech could remember as to its content.

H. THE CORROBORATING TESTIMONY OF MRS. LEECH

Before dealing with the Doyle visit it seems best to comment on the corroborating testimony that exists with reference to this version of the Browne visit and the Leech statement. The corroborating witnesses were three, Mrs. Leech, and Thelma and Joyce Leech, the two elder daughters of the household.

⁶⁶ Leech made this period 2 or 3 days.

⁶⁷ Leech stated that Government counsel knew that he had this copy of the statement, but he had never been asked to exhibit it to them.

Mrs. Leech, the substance of whose testimony was taken in affidavit form in the immigration office in Portland before the same witnesses and at the same time that Leech's affidavit was taken, corroborated in general Leech's story of Browne's visit. She stated that only Browne, Leech, and herself were in the living room. Her memory of the content of the conversation that took place between Leech and Browne was only very general, but she was definite on two matters. The first was that Browne had not told Leech where Browne was staying nor how Leech could get in contact with him.⁶⁸ The second was that Leech had told Browne that Leech knew Bridges was a Communist, that he had attended Communist meetings with Bridges, but that he would make no statement to that effect. She testified also that Browne, after being so informed by Leech, made no particular efforts by appeals to patriotism or the like to get Leech to change his mind and agree to make a statement.

With reference to Leech's signing a statement for the two Communists and Austrian, her testimony was more definite. Sitting on the porch she watched the proceeding, saw Leech sign the statement, and was certain that he had only briefly scanned it and had made no alterations in the statement. She added the fact that she had been strenuously opposed to Leech's signing this statement because she had no use for the Communist Party.⁶⁹

I. THE CORROBORATING TESTIMONY OF THERESA AND JOYCE LEECH

Thelma and Joyce Leech appeared on the stand many days later as rebuttal witnesses for the Government. Thelma was 13 years old in June of 1937. She testified that she was in and out of the living room during Browne's visit. She testified that Browne asked her father to sign a statement to the effect that Bridges was a Communist, but that her father had refused to do so. She recalled the time of Browne's visit, its duration, the fact that he had on a dark suit and brown shoes, that Mrs. Leech had taken Browne's hat and placed it on the bed, on what side of the street Browne's car was parked, what direction it faced and even what color it was. She had no direct knowledge of the circumstances surrounding Leech's statement to the Communist delegation, not having witnessed either of these two visits.

Joyce Leech was 11 years old in June of 1937. She also corroborated the details of Browne's visit. Her memory was more detailed than Thelma's. She testified that she was in the living room for all but 15 minutes of the visit and during that 15 minutes was in the middle bedroom.⁷⁰ Her testimony as to the nature of the conversation that

⁶⁸ Leech was also definite on this point.

⁶⁹ Mrs. Leech had also been a member of the Communist Party, but she had left the party in 1934 and had been urging Leech for some time to do the same thing.

⁷⁰ Thelma had stated that, during Browne's visit, her brothers and sisters were out playing in the yard. Joyce's testimony as to Thelma's presence is as follows:

"Q. [by Mr. Shoemaker.] Wasn't he [Bundy] in the room talking to Mr. Browne and your father at the same time?"

"A. No."

"Q. Why do you say 'No'? Do you

"A. (Interrupting.) There was nobody in the room besides daddy, mama, and myself."

"Q. Was Thelma there?

"A. I don't know whether she was there at the exact minute when I was talking about, but she was there part of the time."

Joyce's eagerness to make her testimony persuasive can be illustrated by the following:

"Q. Well, couldn't Mr. Bundy have been in some other part of the house and you not know it?"

"A. No."

"Q. Why? Why couldn't he have been in some other part of the house?"

"A. I went through every room in the house."

occurred tallied with Thelma's. Joyce, however, had observed the two visits of the Communist "delegation" to Leech. She testified to many of the details of their first visit, stating that she had listened in on the conversation. Her knowledge of the second visit was very much more detailed than her mother's. She was even certain that from her point of observation on the porch, her father could not have signed his name on the paper more than once. She remembered that these men and her father didn't look at each other in a very friendly fashion, that the car in which they rode was a two-door sedan and that it was black, that on the occasion of their first visit Mr. Bundy was sitting in the back seat. But despite the neat way in which these minute details fitted the earlier testimony, she testified that she had not talked over her testimony either with her sister, or her father or her mother.

J. LEECH'S ACCOUNT OF THE DOYLE VISIT

One can now return to Leech's version of the subsequent visit of Doyle. Prior to that visit, however, and subsequently to the date of the visit of the Communist "delegation," Leech stated that he had written Captain Keegan of that latter visit. It is difficult to understand what prompted Leech to do so, even in the light of his testimony that he sent this letter to Keegan because he was ashamed of the statement that he gave to the Communist "delegation." All Leech knew of Keegan was that Keegan was Browne's chief. When one recalls that Leech according to his own testimony stated that he did not want to have anything to do with the Bridges matter, it is strange that upon his own initiative he should write to Keegan of his having given a statement to the Communist Party that Bridges was not a Communist—a letter⁷¹ that was almost certain to involve him in the very matter he was seeking to avoid.

This letter of Leech was later introduced in evidence.⁷² One fact about this letter is of interest. Its date, July 26, 1937, makes necessary the following inference: That sometime after 7 p. m. on that day when Leech signed the statement at the request of the Communist "delegation" and before retiring for the night, Leech went to his typewriter and there wrote this letter to Keegan. Such a quick reversal of action, based as it was upon what Leech stated to be his own moral revulsion to his earlier action, would seem one that, considering Leech's other detailed knowledge of these happenings, should have stuck in his mind. But, though he remembered sending the letter to Keegan, all he could repeatedly testify to was that this time interval, which could not have exceeded a few hours, was in the neighborhood of 2 to 3 days.

The story of Doyle's visits to Leech in Los Angeles, as pieced together by Leech's testimony and that of his wife, runs in the following manner. Several weeks after Browne's visit⁷³ Doyle stepped off a streetcar⁷⁴ and called at about 2 p. m. at the Leech home. Doyle,

⁷¹ The letter closes in these terms: "While it is my duty to protect my family from danger, I want you to know that I signed this paper for our own protection, and not to create any difficulties for your department in your work."

⁷² It purported to have been in Keegan's possession. Keegan sent it on to Government counsel after Leech had first testified, stating that it might be valuable in corroborating Leech's story. The letter is typewritten on plain yellow paper and bears Leech's signature in pencil.

⁷³ Mrs. Leech put the time of Doyle's visit along toward the last of July. It is impossible accurately to date these visits except that they occurred after July 26, 1937.

⁷⁴ Mrs. Leech and both the children were positive that Doyle came by streetcar. Thelma Leech even volunteered that Doyle was the only person that got off that particular streetcar on that day at that time at that particular stop.

representing himself as a special agent of the State of Oregon and indicating to Leech that he knew what had transpired between Leech and Browne, again sought to induce Leech to testify against Bridges. Leech raised the question of his own personal safety, and Doyle assured him not only that the Federal Government would give Leech protection, but also that he would provide for the transportation of Leech, his family, and his household goods to Portland⁷⁵ and would get Leech a job in Portland.⁷⁶ No agreement was reached between Leech and Doyle that day, but that night Mr. and Mrs. Leech talked over Doyle's proposition, determined that they would comply with his request if the details that Doyle mentioned could be satisfactorily arranged. When Doyle returned the next evening at about 6:30, after Doyle had given Leech the necessary assurances, Leech agreed to go to Portland and testify. Doyle than gave Leech \$110 to cover the expenses of transporting his family to Portland.

Approximately a week thereafter the Leeches were on their way to Portland, traveling in Leech's own 1930 Nash. A trailer carried their personal effects and a few of their household goods. He arrived in Portland on August 30, 1937, registered at an auto camp, immediately made contact with Doyle at the Multnomah Hotel and with Mrs. Leech and Doyle proceeded to the immigration offices and, gave an affidavit there to the authorities.

A few more of the details of this episode may be sketched in. Both conversations with Doyle occurred in the living room with at least Mrs. Leech present.⁷⁷ At no time did Leech tell Doyle what specific information he possessed with regard to Bridges, but despite this Doyle was willing to promise what Leech asked in return for his going to Portland. Leech also made no inquiry as to Doyle's authority to speak for the Immigration Department with reference to Doyle's assurance that the Federal Government would provide him with protection, and this despite the fact that Leech was always clear that Doyle never gave him the impression that he was a Federal official.

After Leech's visit to the immigration headquarters in Portland he was taken by Doyle and Detective Watson to union headquarters and there introduced. Sometime later he got employment as a painter. Leech was still employed when he testified in this proceeding. The Portland police from August 1937 on kept a watch on him and his family.

On December 8, 1937, Leech gave another affidavit to an investigator for the Special Committee on Un-American Activities of the House of Representatives. This affidavit was substantially similar to that which he gave to the immigration authorities.⁷⁸ He was ap-

⁷⁵ Leech's affidavit states that Doyle was to provide money sufficient to defray these expenses and provide for the purchase of a second-hand Ford automobile which would afford the necessary means for Leech's transportation.

⁷⁶ Leech's testimony leaves very uncertain at which of the two meetings these various promises were made by Doyle. His first extensive recitation of the Doyle visits leaves one with the impression that on the first occasion all Doyle promised was Federal protection. Later discussion with his wife gave him the notion that his personal safety demanded that, if he gave the affidavit, it would be necessary for him to move to Portland. Consequently, he made this suggestion to Doyle on his second visit and thereupon Doyle came forward with the other assurances named above.

⁷⁷ As will be seen later the two children, Thelma and Joyce, also were alleged to be present. Even though they were in and out, they seem to have been able to have heard the significant things that transpired.

⁷⁸ This affidavit was presented to the committee by Captain Keegan. See hearings before a Special Committee on Un-American Activities, House of Representatives, 75th Cong., 3d sess., on H. Res. 282, p. 2913. The Examiner was permitted by agreement of counsel to this testimony of Keegan.

proached at some indefinite time to write for the newspapers and was offered a substantial sum if he would do so. However, he refused to do so. As to this matter he testified first that he never discussed the question of writing for the newspapers with anyone, specifically Keegan and Norene, but later admitted that he may have done so.⁷⁹ No further conduct on the part of Leech, prior to his appearance on the stand in this proceeding, is of significance.

The corroborative testimony with reference to the Doyle visits again comes from Mrs. Leech and the two children. In the main, they supported his testimony. It is of interest, however, to note that though Leech had testified that he gave Doyle no specific information with reference to Bridges, Mrs. Leech on cross-examination was led into saying that Doyle and Leech had discussed Leech's attendance with Bridges at some Communist meetings "where it was decided who should run for certain offices in the Communist Party," and even remembered the mention of Redman's Hall on that occasion. Thelma Leech in her testimony seemed somewhat confused between the Browne visit and Doyle's first visit.⁸⁰ Joyce Leech gave a few details on the Doyle visits, indeed, giving no indication that she had witnessed more than one.

K. THE SOURCES OF THE CONTRADICTORY VERSIONS OF THE BROWNE VISIT AND THE LEECH "AFFIDAVIT"

Before dealing with those issues which are crucial to Leech's general credibility, it is best to get the version of Browne's visit and the so-called Communist statement as depicted by the testimony of witness called by the alien. That version can be pieced together primarily from the testimony of Bundy, Austrian, and a woman stenographer, Craney Goldman.

L. THE BACKGROUND OF BUNDY

Bundy like Leech had drifted into California about 1929 in search of employment. As a roofer he seems to have had almost as hard a time as Leech in finding work. He, too, joined the Communist Party some time in 1933. He had, however, none of the organizing gifts of Leech nor any of Leech's capacity to revel in the theories of Com-

⁷⁹ An exhibit in the case is a letter from Norene to Gerard D. Reilly, the Solicitor of the Department of Labor, dated December 18, 1935. It reads in part as follows: "I have to advise for your information that the witnesses John Leech, Herbert Mills, and John Ferguson are becoming very impatient over what they claim is the long and unusual delay of the Department in arriving at some conclusion in the Bridges case. This applies more particularly to Leech and Mills who are very restive and impatient and who are almost daily threatening to tell the complete story to the newspapers; in fact, from what I can learn, I am not at all sure that they have not already done so. I have done my very best to persuade them to abide by the wishes of the Department and the only reason I have for feeling I have been successful is that, so far as I am aware, nothing has appeared in the papers as yet. I have been assisted in this effort by the local police officers but they haven't approached the task with any enthusiasm for the reason that they are likewise impatient." The Government did not produce this letter upon its own initiative. Counsel for the alien suspected its presence and requested its production of the examiner. The latter by the authority vested in him ordered its production and its introduction in evidence.

⁸⁰ Compare, for example, the following, referring to Doyle's first visit and Doyle's request that Leech make an affidavit regarding Bridges:

"Q. Do you remember what your father said, or did you hear what he said?
"A. My father said he was out of the party and didn't want to be bothered with it any more."

The answer is pat for Leech's alleged reply to Browne, but not to his reply to Doyle. Compare again the following:

"A. I knew my father had told him he wanted to be through with the party, and then when Mr. Browne was ready to leave
"Q. Mr. Browne?"

"A. I mean Mr. Doyle. When he was ready to leave he [Leech] said he would think it over."

munism. Bundy, as distinguished from Leech, was a laconic individual, chary of words, dull in wit, and thoughtless in his responses. Leech gave distinct evidences of self-education and ambition; Bundy none. His conduct on the stand, were it not that one knew he knew no better, could have been regarded as discourteous. Yawning at frequent intervals, he seemed to exhibit little concern as to the important questions directed to him. About the only emotional flash he exhibited occurred when he expressed his conviction that Leech was a liar. He was easily confused and frequently patently did not exert the mental effort necessary either to understand a question or to give more than a very casual answer. But, as distinguished from Leech, there was never any equivocation manifested by Bundy, nor—and this is of interest—did he at the invitation of examining counsel pretend to information about matters of which he could have had no knowledge. Again, it is significant as one studies Bundy's testimony to see how the matters about which he felt able to testify concerned him and his relationship to passing events. Events as such passing under his ken were vague and indefinite for Bundy, despite the significance that they might have to the issues of this proceeding. Indeed, events were seized upon by the tenacles of Bundy's memory only when they touched him. Nevertheless, confusion and contradiction characterize his testimony, and it is upon such a weak reed as Bundy that one, in large part, has to rely to gage the truth of Leech's declarations.⁵¹

Bundy worked as a squad captain and organizer for the Communist Party until some time in 1936,⁵² when tired of the duties that membership in the party entailed he quit.⁵³ Bundy, after a series of minor and major marital difficulties, was divorced in 1936.⁵⁴ Bundy

⁵¹ Were one to conclude that Bundy was lying at the instigation of counsel for the alienation issue, this would, in substance, conclude the case. This makes Bundy's credibility a more important issue than the credibility of Leech, for even though one throws out all of Leech's testimony, this would not conclude the case.

⁵² Bundy placed the date late in 1935 or early in 1936. His affidavit of registration (an affidavit executed in order to enable him to vote) which is dated March 21, 1936, recites that he intends to vote for the Communist Party at the ensuing primary election. This is not conclusive that Bundy was still a member of the Communist Party. He left the party with no hard feelings. Indeed, when he testified in this proceeding he seemed still to be sympathetic toward some of its aims. He admitted that he had tried to keep his eldest son from enlisting in the United States Marines, saying that they might eventually be fighting on different sides. He admitted telling his son that Communist literature was much to be preferred to the current cheap magazines that his son was reading.

⁵³ Bundy, unlike Leech, "quit." He had no knowledge of any Communist tenet that members couldn't cease to be members upon their own volition.

⁵⁴ Much was made during the hearings of Bundy's marital infidelity. Its bearing upon this proceeding lies only in its ability to test Bundy's general veracity. Bundy admitted readily enough that he had been arrested for being drunk and fighting, but denied that he had ever beaten up his wife or that he had pleaded guilty to such a charge. He readily admitted, however, to having plead guilty of being drunk. Justice of peace records that were introduced relate that on September 5, 1933, Bundy was arrested by his wife for battery. This charge was dismissed by agreement a few days later. On November 7, 1933, Bundy plead guilty to a charge of having assaulted his wife, and was sentenced to 90 days' imprisonment. The sentence was suspended and Bundy was put on probation for 6 months. Similar action was taken on a battery charge brought at the time, with the difference that on this charge Bundy had been committed to jail pending trial because he couldn't find \$100 worth of bail.

On September 15, 1934, he was again arrested for battery by his wife, but the case was later dismissed when his wife failed to press the charge. The variance between the records and Bundy's testimony seems insignificant. "Beating up" to Bundy was a matter of the degree of force used. It may well be that his contention—that his plea of guilty on the assault and battery charges was a plea of guilty to drunkenness—was his understanding of the action that he took to get himself out of jail. The technicalities of legal procedure and the meaning of various legal steps are frequently beyond intelligent laymen, to say nothing of those whose capacity to grasp the meaning of events is limited. And Bundy had no motive, even that of dignity, to effect a concealment of these facts. In 1936 the Bundy couple were divorced. The sequel to these events bear witness to the platitude that love springs eternal. As Bundy left the stand in this proceeding the following felicitous colloquy took place:

"Q. You told me that you were about to become remarried, is that right?"

"A. Thinking about it pretty strong."

"Q. With whom?"

"A. My ex-wife."

worked with Leech during the few weeks that Leech was employed in March of 1937. Later Leech got him work with the Waldon Roofing Co., where Leech was employed as the foreman on some painting jobs.⁸⁵ Some time around these dates Bundy testified that he brought to Leech's attention an article in a paper that told of Leech's expulsion from the Communist Party.⁸⁶ About then Leech also requested Bundy to help him get reinstated with the Communist Party. Bundy had passed on Leech's request for a reopening of this case to a Communist friend of his, Byrnes, but nothing further came of it.

M. BUNDY'S ACCOUNT OF THE BROWNE VISIT

One Wednesday afternoon in June,⁸⁷ Leech and Bundy were at work on a house a few blocks away from the Leech residence. Leech asked Bundy whether the latter had seen Leech's daughter looking for him. Bundy had not. Leech then told Bundy⁸⁸ that she had brought him word that two police officers were at his home. Leech told of how he had returned and there found Browne who had offered him \$1,000 to make an affidavit against Bridges, an offer that had been refused.⁸⁹ Leech said that Browne had told him to think it over, had left word where Leech could get him that evening,⁹⁰ and was coming back the next day to see him again. Leech thought, according to Bundy, that if he revealed these facts to the Communist Party they could send somebody up the next day to overhear Browne's conversation and that giving the Communist Party this information might help to bring about his reinstatement in the Party. Bundy therupon agreed to go down with Leech to the Communist headquarters.⁹¹

⁸⁵ The records of this company show that the employment commenced some time during the week ending June 19, 1937.

⁸⁶ Bundy was uncertain as to the date of this occurrence and also whether the article was the one already referred to in the Western Worker of June 24, 1937. He stated that he had seen that article but had also seen one in some other paper that carried a picture of Leech.

⁸⁷ Bundy could not place the date better than this. If the date were a Wednesday it would probably have been June 23, 1937. The so-called Leech 26-page statement would make this date Thursday, June 24.

⁸⁸ Bundy claimed that Leech's reason for telling him this story was Leech's desire to get Bundy's reaction to the course of conduct that Leech had pursued.

⁸⁹ A part of this conversation occurred, according to Bundy, while the two men were resting under a tree.

⁹⁰ On this detail Bundy is both uncertain and contradictory. Testifying as to this, he mentions it first in connection with the story of Browne's second visit. His testimony reads as follows:

"A. [Quoting Browne]. * * * 'you talk it over with your wife, think it over and let me know how much money you want to sign this affidavit. You get in touch with me. He didn't say where or nothing. I think more than likely he gave it to him the next day * * * I mean John was to call him the next day at 7 o'clock and let him know about it.'

"Q. [By counsel for the alien obviously confused.] You mean the previous day John was supposed to have called Mr. Browne that night?

"A. Yes."

The matter is still left in some confusion. That confusion is increased by Bundy's account of this detail in his statement to Austrian. This reads:

"Q. That was the sum and substance of the whole conversation [the reference being to Browne's second visit]?

"A. Yes. John was to let him know by 7 o'clock that night. Said, 'I will give you and your wife a chance to talk it over. At 7 I will have to leave for Portland. I will be at the hotel. You can call me.' John did not go, because I watched him until 8:30. Hard up as he was, and with someone digging at him, I just thought I would watch. Watched until 8:30. John did not leave until then, and he did not go. I am satisfied with that."

Leech in his alleged statement to Austrian puts the time when he was to call Browne after Browne's second visit. Leech also makes no reference to Browne's leaving for Portland that night.

⁹¹ The curious *prima facie* contradictions that characterize Bundy's testimony are exemplified by his account of this incident in the statement that he allegedly gave Austrian. This reads in this connection as follows: * * * Before he [an unnamed man from Portland] left, he told John when he would see his price to let him know. Nothing more I know about it. Told John I would get in touch with the party again and give him a

At quitting time Bundy drove Leech down to the Communist headquarters on Spring Street. He parked the car in a lot next door and Leech told him to go up and try to see Klein. Bundy did not find Klein in but found a woman in the office who referred Bundy to Barron. The latter went down with Bundy to the car. There Leech and Barron talked but Barron seemed doubtful whether he or anyone would do as Leech suggested but said that he would take it up at a meeting that night.

Bundy then drove Leech home, came back to the Leech home after supper, and the two of them talked there for a number of hours.⁹² The next morning Bundy and Leech again talked about the matter and, Leech having heard nothing from the Communist Party, a suggestion was made and agreed to that Bundy should secret himself in Leech's house and there overhear Browne's conversation.⁹³ About noon⁹⁴ Bundy turned up in Leech's house and there ate his lunch. Leech came in about 12:30 and was given some lunch by his wife. The two of them were sitting in the Leech kitchen when Mrs. Leech announced that Browne was coming. Bundy got up, went through the dining room, and secreted himself behind a door in the middle bedroom. Browne was ushered in by Mrs. Leech, met by Leech, and the three of them sat down in the front room.⁹⁵

From where Bundy was concealed he said that he could only see Mrs. Leech during the time that she was in the room. After Browne and Leech sat down, they were both out of his line of vision. He could, however, overhear the conversation.⁹⁶ It lasted for about 2 hours. Bundy testified merely as to its main content. This was that Browne, after finding that Leech still adhered to the position he had taken the day before, raised his offer to \$2,000. This, being again refused, Browne said that he had come down to Los Angeles with \$10,000, had spent some of it, but was willing to go higher than the \$2,000 if Leech would make the affidavit. All Leech would have to do would be to fly up to Portland, make the affidavit and return. Browne pointed out that he couldn't give Leech the money for testifying but he could arrange it so that the money would be in Browne's room and Leech could come in and get it and walk out. Leech, however, despite Browne's urging, refused. Browne then got up to go. Bundy thereupon left his hiding place, still concealed, went through

trial. Said he wished I would. Just never done it. I've worked every day. Had a talk with Burns (Byrnes) and someone was to meet me at Burns' house and never done it. Comrade Burns was to meet me at his office at 5:15, but never showed up.

"Q. You took a message down to the office?

"A. Yes; a couple of weeks ago. That was the evening that the first fellow [Browne] came out."

Had it not been for the accident of this unresponsive answer to Austrian's question, there would be nothing in this statement to confirm this visit of Bundy to the Communist headquarters. But this is characteristic of his testimony. Suddenly, Bundy without prodding would make a remark which frequently would make coherent what otherwise would have been contradictory answers. For example, Bundy testified that after his first visit with Gallagher he had never seen him again, when shortly beforehand he had testified about a second time that he had seen Gallagher. Upon being questioned as to this inconsistency by the examiner, he pointed out that these two visits occurred on the same day—a matter that had escaped the examiner but which is supported by a close reading of the testimony that he gave the day before in regard to Gallagher. A quick-witted witness would have been capable of dealing in this manner with false testimony, but it is absurd even to suggest that Bundy possessed mental nimbleness.

"That Bundy was a constant visitor at Leech's house was testified to by everyone.

"Bundy was not certain who made this suggestion. At one time he testified that this suggestion was made the night before and discussed with Mrs. Leech.

"Bundy once put this time as 2 p. m., but his next few answers convince that this was a casual mistake.

"Mrs. Leech was not there during all the conversation.

"At no time did Bundy testify that he had any difficulty, due to the noise made by passing streetcars, in overhearing the conversation.

a bathroom into the front bedroom and through the window of that room saw Browne get into a four-seated car, driven by another man, and drive off. Bundy and Leech shortly thereafter returned to work.⁹⁷

Bundy's alleged hiding place deserves some comment at this point. On the stand he drew a rough sketch plan of the Leech house, marked out the point where he was hiding, the respective positions of Leech and Browne, and his route to the front window. Asked specifically where the door to the middle bedroom was and how it swung, he marked this door as being nearer to the front of the house than to the back, and swinging in from the dining room toward the front of the house in a southerly direction. He testified several times that he was standing and "squatting" "behind" this door, and that he had no recollection that the children had come into that bedroom while he was there.

N. BUNDY'S ACCOUNT OF INCIDENTS INTERVENING BETWEEN THE BROWNE VISIT AND THE LEECH "AFFIDAVIT"

The next day, Friday,⁹⁸ Leech told Bundy that he was afraid that the police might be after him to make him testify.⁹⁹ Leech consequently asked Bundy if he might stay with him for a few days and Bundy agreed. After work that day Bundy took Leech home and then out to his house. This was in the process of being built by Bundy and was located in one of Los Angeles' more removed suburbs, Bell Gardens.¹ Leech lived with him for 5 or 6 days.

Leech went home to live the next Thursday or Friday, went away that week-end into the nearby mountains, and Bundy saw him again the following Tuesday. A few days thereafter Leech told him he had had another visitor. He described this man as representing a chamber of commerce or some similar organization and as having come from Portland. This man also asked Leech to make an affidavit against Bridges, showed Leech a blank check made out for \$5,000 and told Leech he could have this if he would testify against Bridges. Leech stated that he had refused to do so.

O. BUNDY'S ACCOUNT OF THE SIGNING OF THE LEECH "AFFIDAVIT."

One Friday toward the latter part of July, Leech and Bundy quarreled. Leech as foreman insisted upon Bundy and the other men working on Saturday. This Bundy refused to do, and when Leech still insisted Bundy walked out.²

⁹⁷ That night, after supper, Bundy and Leech went to a saloon and over their drinks talked. Bundy had little memory of this conversation. This, it will be observed, is contradicted by Bundy's description of this incident in his statement to Austrian where he says that he stayed with Leech that evening until 8:30.

⁹⁸ There is a serious discrepancy between this and Leech's alleged statement to Austrian—a discrepancy that is commented upon later.

⁹⁹ Leech's having violated relief regulations had, according to Bundy, been mentioned by Browne, but that fact was stressed very little by Bundy in his testimony on the stand as being the reason for Leech's fear of the police. In his statement to Austrian, Bundy says that Browne made general threats against Leech of suspending him and having him picked up for vagrancy if he refused to talk.

¹ Bundy was building this house himself. It was not then completed. Only the frame and floor had been built. Some sheathing, made of Frigidaire boxes, covered one side of the house. Bundy lived in a tent by the house.

² Union painters in Los Angeles did not work on Saturday. This job, however, was not a union job.

³ The testimony is not clear as to whether Bundy simply walked out on this particular job or whether he quit his employment with the Waldon Roofing Co. entirely. This is unfortunate, for the point, as will be seen, is of some importance. The records of the Roofing Company show that Bundy was employed by them until August 6, 1937. However the Friday that Bundy testified to would be July 23, 1936. For that week he was paid

The next evening, Saturday, about 5 or 6 p. m., three men drove up to Bundy's house. One of them was Barron, whom he recognized. The other two were Austrian and Shaeffer.⁴ They asked Bundy to take them to Leech's house. He agreed and got in the car with them. On the way over⁵ there was discussion as to whether Leech would sign a statement for them. Bundy remembered this and remembered also that he told them that he was not sure that Leech would sign such a statement but that Leech would have signed a statement sometime previous.⁶

Arriving at Leech's house, they failed to find Leech in, but as they were standing about the car trying to determine what to do, Leech appeared. The three men got out and went into Leech's house. Bundy stayed outside in the car⁷ and shortly thereafter Mrs. Leech came out of the house and talked to him. Bundy remembers little of this talk⁸ save that Mrs. Leech wanted to know who one of the men was and whether he was a Communist. Bundy not knowing to whom she referred could not answer her. About 20 minutes later the three men came out of the house, got into the car and took Bundy home. On the way back, the others told Bundy that Leech had refused to sign a statement for them but that Leech had indicated that he might do so for Austrian if Austrian would return the next day.

P. BUNDY'S ACCOUNT OF THE STATEMENT GIVEN AUSTRIAN

Sunday around 1 p. m. Austrian and a young lady appeared at Bundy's home. Bundy states he was not there when they arrived but came upon them shortly thereafter. The lady was a stenographer, Craney Goldman. Bundy is under the impression that Austrian told him either that he had gotten a statement from Leech or was going to get one. Austrian asked Bundy to make a statement and Bundy agreed to do so. He got into the front seat with Austrian, Miss Goldman moving to the rear. There, with Miss Goldman taking him down in shorthand, he talked. This interview took about 20 minutes and then Austrian and Miss Goldman drove away. A copy of this alleged statement was introduced in evidence.⁹

⁴\$13.12 indicating a full week of work. For the next week ending July 30, 1937, he was paid only \$13.72. Bundy testified that he never saw Leech again after that day. Counsel for the Government contend that the records of the Waldon Roofing Co. disprove this. But all the records show is that Bundy continued on the pay roll of the company until August 6th, not that he worked with Leech.

⁵Bundy at the hearing did not know Shaeffer's name. He said he had never seen him since that evening.

⁶Bundy was positive that Austrian drove the car. Austrian, who had been on the stand before Bundy, testified to the contrary. Leech also was under the impression that Austrian was the driver of the car in which the Communist "delegation" had come to see him the night he signed the statement.

⁷Bundy's memory of this incident is of interest. That the question of Leech signing a statement should have been broached to Bundy is not surprising in view of the earlier meeting of Bundy and Barron. To Bundy, however, this group of men was also a Communist "delegation", that is, there is nothing in his testimony which gives any inkling that this was other than a matter that flowed naturally but tardily from his and Leech's earlier visit to the Communist headquarters. It is true that he did not allege, even when queried by Mrs. Leech that evening, that Austrian and Shaeffer were Communists. But to Bundy, Barron must have appeared as the leader of this little enterprise, and hence it must have seemed to him to have been a Communist enterprise. But Bundy cogitated only slowly and never manifested much curiosity about other people's lives.

⁸Bundy answering on cross-examination the questions as to why he stayed in the car referred to the difficulties he had had with Leech the day previous and his consequent lack of desire to see him.

⁹Bundy's statement to Austrian, however, relates that Mrs. Leech was angry at her husband for not accepting the money that had been offered him.

¹⁰Bundy claimed that he had not seen this statement before it was shown to him on the stand.

Q. SUBSEQUENT CONDUCT OF BUNDY

Sometime in July of 1939 Bundy, after reading Leech's testimony in this proceeding, got in touch with his friend Byrnes and suggested that he ought to be put in contact with some lawyer who might know something about Bridges. Byrnes that day took him down to the offices of Leo Gallagher, an attorney in Los Angeles, well known for his representation of the Communist Party and for his affiliation with that party.¹⁰ Gallagher talked with him at length and that night Bundy was visited by Austrian, Gallagher, Henry Stapleton¹¹ and a doctor whose name he could not remember.¹² What Bundy knew was again very briefly discussed and Bundy agreed to become a witness in this proceeding.

About a week or so before Bundy appeared on the stand in this proceeding he went to see Austrian to give Austrian some information that had been given him regarding Leech. The information was to the effect that Leech had spent some time in the Utah penitentiary.¹³ This information proved upon being checked to be untrue.¹⁴

These are the outlines of Bundy's contribution to the defense version of the Browne visit and of the Leech "affidavit" to the Communist "delegation." Before estimating what weight, if any, should be given to Bundy's testimony it seems best to describe Austrian's and Miss Goldman's version of these incidents.

R. AUSTRIAN'S ACCOUNT OF THE LEECH "AFFIDAVIT"

Spencer Austrian is a practicing lawyer in Los Angeles. He is also a notary public. In 1937 Austrian was associated in practice with Joseph Aidlin. One of their clients was the Los Angeles Local of the International Longshoremen's and Warehousemen's Union—a C. I. O. Union. On Saturday, July 24, 1937, in Aidlin's absence Austrian was called up by telephone by one of the organizers of that local and told that a man by the name of Leech¹⁵ had been offered large sums of money to make out an affidavit that Bridges was a Communist. Austrian told the organizer that he would get in touch with Leech and asked for Leech's address. The organizer replied that he would get it. Later the organizer again called saying that he would send two men to Austrian's office with the address.

These two men—Barron and Shaeffer—didn't know Leech's address but told Austrian they could take him to a man who did. Whereupon the three men drove out to Bundy's house and there got Bundy to take them to Leech's home. Arriving at Leech's home, Barron, Shaeffer, and Austrian learned that Leech was out but would be back.

¹⁰ Gallagher ran in 1934 on the Communist ticket for Associate Justice of the Supreme Court of California. Counsel for the Government point with suspicion to the fact that Bundy first sought the advice of a Communist lawyer. But Byrnes, a Communist, would naturally have referred Bundy to Gallagher.

¹¹ Bundy knew Stapleton was a longshoreman; He did not know whether Stapleton was a Communist.

¹² This according to Austrian was Dr. Tashian, reported to be a Communist.

¹³ Bundy had no direct knowledge of this. He did state that at one time Leech had talked to him about being in jail. As has been pointed out before, there is no evidence to show that Leech had ever been in the penitentiary.

¹⁴ A check of the records of the Federal Bureau of Investigation failed to disclose any evidence that Leech had ever been in jail.

¹⁵ Austrian had met Leech sometime after the E. P. I. C. campaign in 1934. Austrian had taken an active part in that campaign and stated that he protested to Leech of the part that the Communist Party had played in and subsequent to that campaign.

shortly. Consequently they waited in the living room. In a few minutes he arrived. In the conversation that thereupon ensued Leech became quite angry, upbraiding Barron for not having come sooner in view of Leech's visit a month ago to Barron. Leech said that he would not have anything more to do with the Communist Party. Austrian interrupted to suggest that Leech might be willing to discuss the matter with him if he came back alone. To this Leech agreed.¹⁶ Thereupon the three men left, dropping Bundy at his home on the way back.

Austrian that evening sought to get a court reporter to go out with him to the Leech home Sunday morning. Failing to do so, he finally reached Miss Goldman late that night and she agreed to come. Miss Goldman was a stenographer for Raskin and Solotoy, a law firm having joint offices with Austrian. As such Austrian naturally knew her, but he had never theretofore employed her.

On Sunday morning Austrian picked up Miss Goldman at her residence about 8:30 a. m. They stopped for breakfast on the way, stopped again at a drug store to permit Austrian to purchase a note book for Miss Goldman, and arrived at about 10 a. m. at the Leech house.

There Austrian left the car, found Leech at home, and, upon Leech's suggestion that they go outside to talk because his wife was angry about the whole matter,¹⁷ invited Leech into the car. There, with Leech and Austrian sitting in the front seat and with Miss Goldman sitting in the rear seat, Austrian after some preliminary talk asked questions, which Leech answered. Miss Goldman transcribed both questions and answers in her notebook. This took about 2 hours.

From there Austrian and Miss Goldman went to Bundy's house. They found it after considerable difficulty and there essentially the same process was repeated. Austrian's account of this incident differs from Bundy's only in very minor details.¹⁸ Following that Austrian about 3:30 p. m. took Miss Goldman to dinner and dropped her later at her hotel with instructions to type the statements.

By Monday afternoon Miss Goldman had only some of the pages typed. Austrian nevertheless dictated an affidavit¹⁹ for Leech to sign which Austrian later in the evening took out to the Leech house together with such portions of the Leech statement as had then been typed.²⁰ Leech again slipped out and sat with Austrian in his car. There Leech read the portions of his statement that had been transcribed. Leech remarked that he didn't like to see some of the statements that he had made about his wife down in black and white. Austrian replied that he wasn't interested in the statement particularly, that all he wanted Leech to sign was the affidavit and thereupon Leech removed those pages, including the carbon copies, that referred to his wife.²¹ Leech then read over the affidavit and made certain

¹⁶ Austrian testified that at that time no definite arrangement was made either as to when he was to come back or that Leech would give him a statement when he did.

¹⁷ Austrian stated that Leech had said that Leech's wife had wanted him to take the money that was being offered Leech. This is, of course, mere hearsay as to Mrs. Leech, but it is direct testimony as to Leech's reason for going out to Austrian's car rather than inviting Austrian into the house.

¹⁸ Austrian testified that he first saw a woman at the Bundy house. This could only have been a neighbor's wife, for Bundy's wife had then left him.

¹⁹ Austrian stated that he dictated this affidavit in the afternoon.

²⁰ These pages, some 15 in number according to Austrian, had not been sorted. The carbon copies were then still clipped to the originals.

²¹ This record of Leech's answers to Austrian's questioning was introduced in evidence. It is a statement of 26 pages. Pages 6, 7, and 12 are missing.

corrections in it and then signed the affidavit. Austrian in Leech's presence also signed it, filled in the date and impressed his notary's seal upon it, giving Leech a copy of the affidavit, which, however, had neither Leech's interlineations, Austrian's signature, nor the notarial seal. After some more conversation,²² Austrian left.

Austrian later mailed copies of this statement and of the affidavit to the Union.²³ Later he suggested to one of the organizers that steps should be taken against Browne for subversion of perjury and for impersonating a Federal officer. Austrian retained copies of the question and answer statement and the original of the affidavit in his files. About a year prior to this proceeding²⁴ Austrian gave counsel for the alien a copy of the question and answer statement and permitted them to make a photostat of the affidavit.

Extended cross-examination of Austrian brought out some additional details. Austrian denied that he was a Communist but admitted to sympathy and association with organizations that many people class as left in sympathy and viewpoint.²⁵ In cross-examination Austrian was unable to recall many of the minor details concerning his three trips to see Leech. On cross-examination he also reviewed his later association with the case, his visit with Stapleton, Gallagher, and Tashian to see Bundy²⁶ and Bundy's later visit to his office. He revealed that he had spent a day with counsel for the defense at the time when Leech was first on the stand going over for their benefit his associations with Leech. Nothing of any material significance was brought out during Austrian's cross-examination with the exception of Austrian's denial that he had ever represented the Communist Party or had arranged on their behalf for the lease of a hall in Los Angeles. Since this incident was made much of by the Government in its rebuttal in an effort to discredit Austrian, the circumstances surrounding it and its general significance are set forth in an appendix.²⁷

S. GOLDMAN'S ACCOUNT OF THE LEECH "AFFIDAVIT"

Miss Goldman was the stenographer who accompanied Austrian at the time when he took the two statements from Leech and Bundy. To her this occasion was one that was in the formal routine of work. Consequently, many of the minor details relating to these two incidents have now escaped her memory. This is, indeed, to be expected. Were it otherwise her testimony would be for that very reason suspect. Though counsel for the Government complain of her inability to remember these minor details, they forget that 2 years have now passed since that Sunday morning when Miss Goldman accompanied

²² Leech tried to get Austrian to intervene with the Communist Party and bring about his reinstatement. Austrian later wrote them, but received in reply only the clipping already referred to that recited Leech's expulsion and the reasons underlying it.

²³ Bridges testified that he had had a copy of the Leech affidavit forwarded to the Department of Labor. A search of the Department's files failed to turn up any evidence that this document had ever been received by them.

²⁴ This was about the time when this hearing was first scheduled to proceed.

²⁵ Subs as the American Civil Liberties Union and the Abraham Lincoln Brigade.

²⁶ It will be remembered that Bundy testified that these four men called upon him the evening of the day that he had been taken by Byrnes to see Gallagher. Austrian testified that while he was in San Francisco and at the offices of counsel for the alien, Stapleton had come in and told them of the fact that contact would be made with Bundy. He and Stapleton thereupon flew down to Los Angeles, went direct from the airport to Gallagher's office and were then driven out by Dr. Tashian to see Bundy. Leech was on the stand on July 12, 13, 14, and 17. The application by counsel for the defense for a subsession for Bundy was made on Monday, July 17.

²⁷ See Appendix IV.

Austrian upon a trip that she could not then have envisaged as potentially so significant.²⁸

Miss Goldman had been asked some few weeks before her appearance at this proceeding to search for the stenographic notebook in which she had taken down the Leech and Bundy statements. She was unable to find them, but she seems never to have been commanded by her superiors to keep her stenographic notebooks with the result that her general practice was to destroy those that were more than 6 months old.

Her testimony generally corroborates that of Austrian. It differs in certain minor details.²⁹ She was confident, for example, that she telephoned Austrian in reply to his message early on Sunday morning rather than on Saturday night. She saw no women at Bundy's house when they arrived but had a memory of Austrian talking to a young man of 18 or 20 before Bundy arrived. She added the further information that the entire transcription of the Leech and Bundy statements took her about a week, but though she was sure that she had given Austrian some pages of the Leech statement on Monday afternoon she did not know how many pages were completed by that time:

T. ANALYSIS OF THE LEECH AND BUNDY STATEMENTS

It seems best next to turn to the Leech and Bundy statements that were transcribed by Miss Goldman. The Leech statement, as has been noticed, consists of 26 pages of which pages 6, 7, and 12 are missing. It recounts that Leech was approached first upon a Thursday by a man who stayed at the Clark Hotel, room 543, and was registered under the name of William Browne. It tells of how he was notified of Browne's visit through a note sent to him by his wife through his little girl. Leech came home and invited Browne in. Browne then told Leech he was a member of the United States Immigration Department, that he knew that Leech had been expelled from the Communist Party, and that he wanted information on Harry Bridges. He pulled a sheaf of affidavits from his pocket, one of which outlined a district committee meeting of the Communist Party at Redman's Hall in San Francisco at which Bridges was present and another district bureau meeting at 121 Haight Street prior to the district convention of the Communist Party at which Bridges was also present. Browne then offered

²⁸ Miss Goldman occasionally volunteered a minor detail, not directly responsive to any question that was asked her, which was of interest as corroborating other testimony. On the other hand she could not fail in certain details that even counsel for the alien hopefully sought to elicit from her. Compare, for example, her testimony in regard to hunting for the Bundy house, her remembrance that the Leech house was on a dead-end street, her memory of the general physical surroundings of the Bundy house, and contrast therewith the lack of any memory or notice of Bundy's physical defects.

* The Government calls attention to certain other discrepancies. It asserts that Miss Goldman testified there were white posts at the end of the Leech Street, which admittedly were not there. The street ended in a railway embankment and one telephone pole stood part way up this embankment. A close reading of Miss Goldman's testimony shows that she was clear, that the street was a dead-end street. She further volunteered that she had a vague impression that there were white poles at the end of the street but it cannot be asserted that this was a matter of which she was certain. The Government also points to differences in the testimony of Austrian and Miss Goldman as to times of arrival at the Leech house, the time of eating dinner, the elapsed time of the Leech interview and other similar matters. But coincidence in these details would be greatly suspect, variation natural. The Government also implies that Miss Goldman stated that Austrian dictated the affidavit to her on Monday morning, whereas he stated that this occurred on Monday afternoon. But this is a misreading of the evidence. Miss Goldman referred to the subject on four occasions and at no time was she willing to be definite as to the exact time of day when the dictation took place.

Leech \$1,000 if he would give this information. Browne also pointed out that Leech had been accepting relief illegally. When Leech refused to do as Browne suggested, the latter argued some more but left with the suggestion that he would be back the next day at 1 o'clock.

The statement then recounts Leech's and Bundy's visit to Barron,²⁰ Leech's request for Barron's assistance, the failure of the Communist Party to come to his aid, and his suggestion around noon of the next day to Bundy that the latter should conceal himself and overhear the conversation. It recounts at length Browne's second visit. On this occasion Browne suggested the possibility of more money but no definite sum was mentioned. At the close of this visit, Mrs. Leech stated that they would think it over but Leech determined that he would neither communicate again with the party or have anything further to do with Browne.

The statement recounts that on the following Sunday afternoon Browne again drove up to Leech's house. A third time he was asked in. This time he suggested that Leech fly up with him to Portland and there sign an affidavit. Further persuasive efforts were tried, including the suggestion of more money but no definite sum was named. Leech refusing to comply with Browne's request, he again left.

The statement then relates that about a week later a man, whose name Leech could not remember, called upon him. He represented that he was the secretary of the Oregon Joint Chamber of Commerce.²¹ This man stated that he was aware of Browne's visit, that he deprecated Browne's method of handling this affair, knew that \$1,000 would not be enough, and then pulled two checks from his pocket. One was for \$2,000 and the other was in blank. He suggested that \$5,000 or even \$10,000 might be an appropriate sum if Leech would, as he expressed it, do them a favor. Leech again refused and after some further conversation this man left.

The Bundy statement embraces only three pages. It tells of Leech's conversation with Bundy following the first Browne visit in which Leech tells of Browne's first offer of \$1,000. It then tells of Browne's second visit when Bundy overheard the conversation. In recounting this visit no mention is made of a definite sum being offered other than the original \$1,000 except that Browne "raised the ante." Nor is any mention made of how and where Bundy concealed himself. It states that at the end of this interview Leech was to call up Browne by 7 p. m. but that Leech had not done so because Bundy had watched him until 8:30 p. m.

The statement then relates that Leech asked Bundy "the next day" to let him stay with him and how Leech stayed with Bundy for 4 or 5 days. It also recounts a subsequent conversation between Leech and Bundy in which Leech tells of the visit of the Chamber of Commerce man and his offer of \$5,000. It ends substantially with the following:

Q. Did John say anything about his wife?

A. His wife, she would like very much, for him to. Was pretty peeved last night. Made a couple sarcastic remarks. She's very much enthused over it. Would like it very much. Very mad last night . . . *

²⁰ A page probably dealing with Leech's talk to Bundy is missing.

²¹ The statement later refers to this association as the Oregon Associated Chambers of Commerce and the Associated Oregon Chambers of Commerce.

Judgment as to the authenticity of these statements should have prime regard to several factors.⁵² Among these is the internal evidence of their being statements given by the two persons named.⁵³ In this respect there is much to lead to a belief that they are what they purport to be. The language employed by Leech is characteristically that which he employed upon the stand. His answers are enormously detailed, never direct and to the point, but rambling and replete with immaterial facts. Again and again expressions that are familiar to Leech occur in this statement. There is Leech's general ponderosity and pomposity in the use of words, his tendency to elaborate, qualify, and adumbrate. Similarly the Bundy statement reflects his laconic qualities, his tendency to jumble things together, and his innate lack of accuracy of statement. In other words examination of the statements from this standpoint gives no evidence to prove the contention that they are spurious.⁵⁴

More serious are certain problems raised by a consideration of the fact that the Leech "affidavit" was drawn up by Austrian upon the basis of what he claimed to have learned from the statements that he got from Leech and Bundy. Examining that affidavit closely several matters are apparent.⁵⁵ The affidavit recites that Leech's party name is John A. Lewis. There is no mention of this fact in the 26-page statement. Austrian was at a loss to explain how he learned this fact. The only possibilities are that Leech may have told him this in preliminary conversation or that this fact may have appeared on 1 of the 3 missing pages of the 26-page statement, probably page 12. Again the affidavit makes no mention of Browne's third visit, though it mentions the first two and the visit of the man from the Chamber of Commerce. Thirdly, it places that latter visit a week prior to the making of the affidavit whereas the 26-page statement places it a week subsequent to Browne's third visit.

The most puzzling of these problems arises from the fact that both in the affidavit and in the 26-page statement Browne's name is spelled "Browne." Neither Austrian nor Miss Goldman could remember Leech spelling it for them at their request nor did Austrian know

⁵² The Government in its brief makes the contention that the taking of this 26-page statement would have occupied more time than the 2 hours alleged by Austrian and Miss Goldman to have been occupied by the incident. They state that they have proved to their satisfaction that this could not have been done physically within this time. But no proof of this nature was ever offered at the hearing. Obviously judicial notice cannot be taken of such a questionable proposition.

⁵³ The Government contends that inasmuch as Austrian's questioning is leading, this in itself is proof that the documents are spurious, inasmuch as Austrian admittedly had no knowledge of these matters other than what he could have derived from Leech. It is true that there are a few leading questions, but these occur only on the first page of the statement and could be explained by the fact that preliminary to transcription Leech and Austrian chatted both on the sidewalk and in the car.

⁵⁴ The Government also contends that internal evidence in the Leech statement proves it to be spurious. They point particularly to the use of the word "yesterday" by Leech in a phrase where in speaking of Browne's second visit he says: "I talked with him in quite detail, going over what information we had gone over yesterday, so that Bundy could hear him." "Yesterday" can obviously have reference to the day before the second Browne visit not to the day before the time of the taking of this statement. The error can well be viewed as a natural one. They point again to the fact that prior to the visit of the man from the Chamber of Commerce the following statement is made by Leech: "Bundy and I discussed it several times. He knew I was not responsive to the proposition, though we both did talk in a casual way, because we knew each other very intimately, what a lot of fun a fellow could have with ten thousand dollars." Since \$10,000 is not mentioned in the statement until the visit by the man from the Chamber of Commerce, the Government contends this is the type of error that indicates spuriousness. But it is clear that Leech and Bundy talked about the problem both before and after the visit of the man from the Chamber of Commerce and it is easily possible for Leech to have then been thinking in terms of his talks with Bundy without segregating those talks into two different periods of time.

⁵⁵ This affidavit is set forth in appendix V.

otherwise of Browne's existence. But more surprising is the fact that Leech in his letter to Captain Keegan, written on the night that he signed the affidavit and after he had signed it, spells the name several times as "Brown." This leads to the suggestion that either the 26-page statement is spurious or the letter to Keegan which Keegan forwarded is spurious—the latter a serious reflection upon the integrity of the Portland police and not lightly to be indulged in but one that in the light of events detailed later cannot be easily dismissed.⁵⁶

A third angle from which these statements must be examined is their lack of correspondence with the testimony of Bundy. It is unnecessary to go into the many minor variances but some of the major ones deserve comment. The first of these is that at no time is there any mention either in Bundy's statement or in Bundy's testimony of the third visit of Browne. Instead, Bundy both in his testimony and in his statement has Leech coming to stay at Bundy's house the day after Browne's second visit, while Leech in his statement makes no mention of this fact at all. A second is that Bundy in his testimony has Browne making Leech an offer as high as \$10,000, whereas both in his statement and the Leech statement Browne raised his original proposition of \$1,000 to a higher indefinite figure, but it is the man from the chamber of commerce who first talks in terms of \$5,000 and \$10,000. Thirdly, in his statement Bundy has himself leaving Leech at 8:30 p. m. the night after Browne's second visit, whereas he testified that he and Leech that night went to a saloon and stayed there until 12 p. m. Fourthly, neither Austrian nor Miss Goldman, at the time of their taking Leech's statement, or Bundy, at the time of his overhearing Browne in the living room, make any reference to experiencing any difficulties due to the passing of streetcars. The excessive character of the noise made by the passing streetcars was commented upon both by the two Leech children and by the two immigration inspectors who viewed the Leech premises.⁵⁷ One thing is patent upon the face of Bundy's testimony and that is that he had not, as he testified, refreshed his memory by reading over a copy of his statement prior to taking the witness stand.

U. BUNDY'S EAVESDROPPING POSITION

Before commenting further on Bundy's testimony, it is desirable to return to that portion of it in which he tells of how he overheard

* Indeed the spelling of "Browne" as "Brown" in the Leech-Keegan letter is in itself a matter of suspicion. There is no question but that the affidavit is genuine. Taking then the Government's hypothesis that the affidavit was made out by Austrian with the assistance of some Communists such as Barron and Shaeffer within a period of 24 hours and upon the basis of information that they received through Bundy and Leech that Browne had seen Leech, how one asks, did these men know the correct spelling of a somewhat obscure detective in the Portland police department? It is, of course, possible that they may have verified it by long distance telephone to Portland or that that there may have been some record of that fact available to them in Los Angeles. But the spelling of Browne as "Brown" in the Leech-Keegan letter thrusts as much doubt upon the genuineness of that letter as it does upon the 26-page statement of Leech, especially so when one considers the absence of any real reason for Leech to have written such a letter to Keegan.

⁵⁶ These two inspectors also made some tests as to the possibility of a person in the middle bedroom of the Leech household overhearing a conversation carried on in the living room. A conversation would be carried on in the living room in a normal tone of voice by one inspector while the other inspector secreted in the middle bedroom tried to listen. The result was that the listening inspector could hardly hear anything more than a jumble of sound. But the test was not impressive. A normal tone for the inspector who made the test was so low and so indistinct that the examiner was hardly able to hear him as he testified on the witness stand a few feet removed from the examiner. Indeed, the examiner had to tell the inspector to speak up so that he could be heard.

Browne talking to Leech. It will be remembered that Bundy drew a sketch plan of the house and described with minuteness the spot where he was concealed. He placed himself behind the door of the middle bedroom and had that door swinging in toward the middle bedroom in a southerly direction toward the front of the house. Actually that door swings in toward the middle bedroom in a northerly direction toward the back of the house. This fact was stressed greatly by the Government to prove Bundy's statement to be false.

The point is of importance. Bundy always put himself behind the door, looking through the crack of the door, never peeping through the door through a crack left by the door being only partly open. He described the line of his vision as embracing neither Leech nor Browne when they were sitting down but only Mrs. Leech on the duofold. If one accepts this testimony, his sketch of his position on the face of his drawing would not have permitted him this line of vision. In other words, Bundy's testimony as to his line of vision would have had to be false if Bundy's sketch had been accurate. For his testimony in this respect to be true the door to the middle bedroom would have had to swing exactly the way that the Government eventually proved it did. Indeed, the more one ponders this incident, the more one is convinced that on this point Bundy told the truth. If this had been fabrication by Bundy, he would have hardly drawn a sketch which on its face proved that he could not have seen what he claimed to have seen. It was the Government's corrections of Bundy's rough sketch that proves he could have stood behind that door and seen exactly what he stated he had seen.

V. ANALYSIS OF THE LEECH "AFFIDAVIT"

Several matters strike very deeply at the question of Leech's credibility. The first of these to be considered revolves about the so-called "affidavit" that Leech signed denying that he had any knowledge that Bridges was a Communist. It will be remembered that Leech stated that this was not an affidavit, that Austrian had not signed or sealed it in his presence, that he had merely scanned it casually and had not made any interlineations upon the type-written document.²⁸ Upon all these matters Leech finally became positive under the pressure exerted by cross-examination.

It is interesting to notice the development of Leech's testimony on these points. His first answers to questions along this line were somewhat indefinite. He stated that he had only a vague impression of the contents of the affidavit, that he believed he had made no corrections in it, that he did not remember whether or not he had read it but that it was "likely" that he had scanned it. Confronted with a photostatic copy²⁹ of the affidavit, he was unwilling to identify the signature thereon as his. As to the interlineations on the document, he answered that they could be his handwriting but that he had no recollection of making any interlineations.

The next day that he testified, a copy of the affidavit that had been in Leech's custody was produced by Leech himself. This was identical

²⁸ The "affidavit" with its interlineations is set forth in Appendix V.
²⁹ The original of the photostat was introduced the following day.

with the original save for the absence of the signature, the interlineations, the signature of Austrian, and the written-in dates and the notarial seal. Pressed again with reference to the interlineations he stated that he had not made the interlineations, but was still "not satisfied" that the signature was his, though he admitted that it had many of the characteristics of his signature. Pressed further he became positive that he had not made interlineations and charged that they had been put on after he had signed the document if he had signed that document.⁴⁰

Leech was followed after the noon recess that day by Mrs. Leech. She, it will be remembered, sat on the porch that evening "just as it was getting dark" and witnessed the incident of Leech signing the affidavit. She also testified that Leech had not made any changes in the document. Many days later 11-year-old Joyce Leech, who was also on the porch watching her father, was certain that he had signed a paper only once and had signed only one paper.

The interlineations so far as their content goes are utterly unimportant. But in the light of Leech's positive statement that they were not his—a statement corroborated by his wife and child—the fact as to whether or not they were his becomes important. Especially is this so since Austrian's testimony directly contradicts Leech on this point. In short, they provide a litmus test on veracity as between Leech and Austrian.

Two handwriting experts were called on this issue, one by counsel for the alien and the other by the Government. Both agreed on one point—that the signature on the so-called affidavit was made by Leech. The former, E. O. Heinrich, testified that in his opinion the interlineations were in the handwriting of Leech; the latter, Charles H. Stone, that they were in the handwriting of someone other than either Leech or Austrian. A detailed analysis of their testimony and the methods employed by them is included herewith in an appendix.⁴¹ On this direct conflict of opinion, that of Heinrich is very much to be preferred to that of Stone, whose opinion was demonstrated to be utterly worthless. Heinrich's opinion is so compelling that one is driven to the conclusion that not only was Leech mistaken but in the light of his subsequent definitive assertions his testimony in this respect was both untrue and false.

W. LEECH'S RELIEF RECORD

A second important test of Leech's veracity relates to his position as a recipient of relief. This question was raised because counsel for the alien from the beginning made efforts to discover whether Browne had threatened Leech because of his discovery that Leech had been accepting relief illegally and because of the suspicion that Leech had finally agreed to testify because of similar pressure exerted by others. It is not necessary even ultimately to determine whether such threats had ever been made; it is only necessary to consider Leech's testimony insofar as it represents a truthful portrayal of his own situation.

⁴⁰ Leech's positiveness that he had not made these interlineations increased the more that he was pressed in this connection. Prior to Leech's being recalled to the stand, E. O. Heinrich testified as a handwriting expert that these interlineations were in Leech's handwriting. Leech on the stand later stated that Heinrich's testimony did not lead him to alter his earlier testimony.

⁴¹ See appendix VI.

Here again the progression of Leech's testimony is of significance. The issue was opened early on cross-examination. The question and answer are characteristic:

Q. Were you on relief at the time he [Brownie] came to see you?

A. No.

Q. When was the last time that you had been on relief?

A. I think, if I remember correctly, that I had been on relief several weeks or possibly a few months just previous to that time, and it is possible that for periods even during that time—because I did not have steady employment at my work—it is possible that I was registered and qualified even at that time or just prior to that time to receive relief.

The next day Leech answered more broadly that he had never knowingly been the recipient of relief in violation of law.

Leech also in this connection testified with respect to his earnings. He stated that just prior to leaving Los Angeles he had been making \$48 a week, that his average for the 6 months prior to his leaving was "in the neighborhood of \$25. or \$28 a week; \$105 or \$110 a month, perhaps"; that over the year prior to his leaving "it would strike pretty close to \$20 or \$22, something like that, average per week."⁴² The inference from these statements alone is that during both the 6 months and the year referred to Leech, if on relief at all, was so simply for very short periods.⁴³

Some days after Leech had left the stand his relief records were introduced. They established that he had been on relief from November 30, 1934, to January 9, 1936; that he had reapplied on November 16, 1936, and had been put on relief on November 23, 1936, and continued thereon until April 3, 1937,⁴⁴ when relief was discontinued because he received private employment. Leech reapplied for relief on May 17, 1937, and relief was again started on May 24, 1937. It was continued from then on without interruption until the case was closed on August 30, 1937, effective as of September 3, 1937, due to notice from Leech received by way of the mail on August 30, 1937, that he was on his way to Toledo, Ohio. Leech's relief budget was on the basis of \$37.70 semimonthly.

At no time from November 23, 1936, until August 30, 1937, except for the break of the month and a half in April and May, do the records of the State relief administration reflect the receipt of any outside earnings by Leech. Recipients were under a duty to report the receipt of such earnings directly to the central office or to the monthly visitor. The rules of the relief administration require that a recipient's relief be discontinued if his earnings are in excess of his relief budget. If they are less than his budget, the recipient continues eligible for relief, but they are deducted from the amount that he is entitled to receive except that he is allowed to retain without deduction an amount equal to 25 percent of his monthly budget. For fraudulently obtaining and receiving relief a recipient is criminally liable and also liable civilly for the amount that he has fraudulently received.

⁴² Leech added in this connection, inasmuch as he admitted his average was less than the average for painters in Los Angeles, the following: "I want to make clear here that the year as you raised it there—that the year back from the time I left Los Angeles, a portion of that year, had been spent in Communist Party activity."

⁴³ One inference is patent; namely, that this average represented "earnings" and not relief.

⁴⁴ The period when relief is discontinued does not correspond with the date of the receipt by the recipient of his last relief check. Because the amount paid is computed for the time for which aid is required, the date of the receipt of the check may be as much as 2 weeks in advance of the time of the discontinuance of relief.

With these relief records it is important to contrast three facts. The first is that Leech, according to his testimony, received \$10 a week from the Communist Party from 1934 to 1936, and \$20 a week from the same source from the middle of 1936 to early November of 1936. The second is that Detective Browne's visit occurred on June 23 or 24, 1936. The third is that the records of the Waldon Roofing Co. show he was employed there continuously from about May 22, 1937, to August 21, 1937, receiving a total of \$419.14. His highest weekly earnings during that period were \$47.17; his average weekly earnings were approximately \$32.24.

Other matters in the relief records are also of interest in this connection. The monthly visitor's report²² as of June 24, 1937, recites: "Interviewed woman in home. Man was out looking for work at the time. Man is making every attempt to find private employment so that he can become self-supporting. He has had no work as yet and no odd jobs." As of July 8, 1937, the report reads: "Interviewed woman in home. According to woman, man has been able to pick up a few odd jobs, and hopes to secure permanent employment in the near future. She will notify office immediately when man secures work." As of July 15, 1937, the report adds: "Letter from man stating that he had been unable to secure private employment and it further stated that he contacted USES [United States Employment Service] office in an effort to secure employment but had been unsuccessful." As of August 23, 1937, there is this entry: "Interviewed man and woman in home. The six children were present also. Man stated that his brother-in-law has written him from Toledo, Ohio, requesting that he return to that city to live nearer to his mother, who is quite aged. Brother-in-law is to send money for transportation. Man will let visitor know as soon as arrangements for the trip have been completed." A final entry as of August 30, 1937: "Postal card received from man from Redding, Calif., stating that man and family are en route to Ohio, where family expects to establish residence. Man stated that he wished his case to be closed * * *."

Leech was recalled to the stand to explain the patent conflict between his testimony and the relief records. This day and a half, during which Leech was on the stand, perhaps exhibits his habits of evasion, qualification, and tenuous elaboration at their height. At one and the same time he would admit and deny the correctness of the relief records. Similarly he both admitted and denied knowledge of the relief regulations requiring him to report outside earnings to the relief authorities—reports which would have brought about a reduction in relief payments.

On the question of whether Leech had ever made any report to the relief authorities during the period from November 1934 to January 1936, of the weekly income of \$10 to \$15 that he received from the Communist Party, the quotation of a few of Leech's answers will give some indication of the character of his testimony:

Q. Did you report any of that income of \$10 a week from the Communist Party to the relief administration, or the relief authorities, or any representative of the relief administration or relief authorities?

²² The actual reports of the monthly visitor are not available. A summary of the report is dictated by the visitor to a stenographer who then makes a transcription of it for the official files. As such these summaries are admissible in evidence under the exception to the hearsay rule regarding entries made in the regular course of business (*Mississippi River Logging Co. v. Robson*, 69 Fed. 773; see 3 Wigmore, Evidence, sec. 1530).

A. I believe that I did on two or three occasions; I believe that at one time, through the influence of certain members of the Communist Party that were also connected with the relief administration, that they offered me, in addition to the \$10 a week that I was getting, supplementary aid if I needed it or wanted it.

Q. Just a minute. We will forget about supplementary aid. Do you understand the question? The question is, did you report or did you not report to the relief authorities, or any of their representatives, this \$10 a week income which we are referring to?

A. I can definitely say that to their representatives, yes; in an official manner by communicating or going into the office, I can't say that I recall I ever did.

Q. To whom did you report and when?

A. One of the persons to whom I reported and discussed it with was John E. Jeffery who, in 1934, was the Communist Party election campaign manager in Los Angeles * * *. In 1935 Mr. Jeffery went to work for the State Relief Administration in Los Angeles and, during this period, was also the Communist Party organizer of the Social Service Workers units in Los Angeles * * *.

Q. Was Jeffery acting as representative of the relief administration in handling your case when you gave him this information, or was he just working on relief, I mean, in the relief administration?

A. I cannot say definitely just exactly what Mr. Jeffery's role at that time was * * *.

Q. Did you ever report this income to that person who was assigned by the relief administration to visit your home, or you, and check up on you, your case, and your income?

A. In the sense of reporting it, I don't know what I ever did; I want to further qualify that by saying, however, that with my visitors I have discussed the matter. Whether it can be interpreted on the basis of a report, I don't know.

Q. Do I understand you to say that you did give the information that you were receiving \$10 a week from the Communist Party to one of the visitors who was assigned by the relief administration to take care of your case?

A. I would say definitely, yes; though qualifying this by saying that I do not know. I do not remember, whether I made a specific report in writing or whether it was simply an oral discussion with the visitor; I don't know.

Leech admitted that he had never given the relief authorities any notice of his having been employed by the Waldon Roofing Co. from May 22 to the middle of August—a period during which he was continuously receiving relief. As a reason for not doing so, he claimed that the job had been gotten through them and that therefore he felt himself under no necessity to give them notice. This, of course, is an insufficient explanation to justify his cashing of relief checks while so employed.

Leech was forced into a position where he was compelled to deny the reports of the relief visitors. He suggested that their incorrectness was due not only to the carelessness of the visitors but insinuated that among these visitors were Communists who made reports in this manner to discredit him. But to attribute such penetrating prescience to these visitors is absurd, and an examination of their reports tends to build a belief in their general accuracy.⁴⁶

Leech was again in difficulty in dealing with his postcard from Redding, Calif., which was received by the relief authorities on August 30, 1937, in which he stated that he was on his way to Toledo, Ohio. He was then actually on his way to Portland, Oreg., Redding being on one of the main automobile routes from Los Angeles to Portland.

⁴⁶ These reports, for example, tally quite remarkably with events of whose occurrence there is no doubt. They recite very accurately such matters as Leech's blood poisoning, the hospitalization of Thelma Leech, the collarbone fractures of Joyce and young John, and Marguerite's serious bout with pneumonia.

He admitted that he had written such a postcard and admitted that he had lied to the relief authorities with reference to his destination. He justified that upon the ground that he was attempting to conceal his destination from Communists in the relief administration rather than from the relief authorities themselves.

It is impossible accurately even to summarize this day and a half of testimony by Leech. In evasion, qualification, and contradiction it is almost unique. Its flavor cannot be conveyed by a few scattered abstracts from the record, for the evasions are truly labyrinthine in nature. Pages of the record are consumed in Leech's efforts to deal with questions that had simple affirmative or negative answers. Indeed, one would be tempted to regard Leech's evasionary tactics as pathological in character, were it not that behind this screen of verbiage was a motive—Leech's desire first to conceal and later to refrain from admitting that he had fraudulently been accepting relief with the knowledge and aid of Mrs. Leech.

X. LEECH'S SUSCEPTIBILITY TO SUGGESTION

One feature of Leech's testimony deserves special notice. It is his susceptibility to suggestion. Leech, for example, testified at length concerning Communist tactics and theory. In his effort to depict the evil practices indulged in and encouraged by Communists, he told of how they suborned perjury in our "capitalistic" courts. To make his testimony more impressive Leech suggested that he himself had indulged in these tactics. He insisted upon depicting himself in such a role when questioned in that regard by the Examiner.⁴⁷ Some days later counsel for the Government recognized the seriousness of that admission. Consequently when Leech was recalled to the stand they took the opportunity of suggesting to him that he withdraw his earlier damaging remarks. Leech readily did so.⁴⁸

A second illustration of this occurred in another connection. Leech, because of his long-association with the Communist Party, was asked

⁴⁷ "Trial Examiner LANDIS. I don't want to continue along that line, except I wanted to clear up just one point in your testimony, your use of that phraseology in that connection, some time back, that you participated in some of the court cases, might, as it stands, be subject to the impression that perhaps you yourself went into court and testified falsely, or that, if not, you engineered false testimony. Do you wish that impression to be left?"

"The WITNESS. I am afraid it has to remain."

"The record on this point is of interest:

"Q. Mr. Leech, I think you testified here during the past week—it may have been before—that that testimony had been given by Communists in trials in the courts which was not true and correct, is that true?"

"A. That is correct.

"Q. Did you yourself ever give any testimony in a trial which was not true?"

"A. I have never knowingly or with intent given false testimony in any court or any other place."

"Q. Will you tell us of any case where you know where members of the Communist Party might perhaps have given testimony in a case in court which they knew to be false?"

Objection having been made to this question, a colloquy ensued between the Examiner and counsel. A portion of this colloquy goes as follows:

"Mr. SHOEMAKER. . . . I was afraid that the impression might have been created—small, perhaps, but there—that this witness had on one occasion and perhaps others gone in and testified falsely in connection with a case in court."

"Trial Examiner LANDIS. I am very frank to confess that the impression was very distinctly left on my mind, in the original testimony of Mr. Leech, that he himself did engage in activities of that nature."

"Mr. SHOEMAKER. That is just the thought that I have."

"Trial Examiner LANDIS. The impression was left on my mind—I recall that I interrupted the witness and called his attention to the inference that his remarks left, and I said, 'Do you want to leave that inference, Mr. Leech?' and he said: 'I am afraid it must be there.' That was my memory of that."

"Mr. SHOEMAKER. And that is the point that I am trying to clear up here now."

by counsel for the Government to identify certain books and pamphlets, that had been offered by the Government, as having been issued with the *imprimatur* of the Communist Party. He did so with reference to a number of them. The bases upon which he rested his opinion that these particular books and pamphlets had been published and distributed with the official authorization of the Communist Party were then explored on cross-examination by counsel for the alien. Finally questioning turned toward one book, entitled "The History of the Communist Party of the Soviet Union." A portion of the testimony in this connection is worth quoting:

Q. [by counsel for the alien] Was the "History of the Communist Party of the Soviet Union," something like that red book, distributed by the Communist Party before you left the Communist Party?

A. I would not say that the book—

Q. (interrupting) "Yes" or "No," please.

A. "The History of the C. P. U. S. S. R." was published in book form in this same form, to the best of my recollection, during my period of schooling in 1936 and, with an instructor from the Soviet Union, we studied this book. I believe that it is the identical book.

Q. Will you please state what is the evidence upon which you base your statement that this book, referring to the red book you just referred to, is officially approved in its entirety by the Communist Party of the U. S. A.?

A. The general contents of this book, plus the fact that to the very best of my knowledge the same book was the book that was used by instructors under the authority of the high section of the party.

Q. First, you say, refer to the general contents. Does that mean you examined the general contents and decided it was consistent with the theories of the Communist Party and, therefore, you concluded it must have been officially approved? Is that what you mean?

A. I examined the contents this noon in such a manner as to convince me that it is the identical book that was used by the Communist Party for a course of instruction in 1936.

Q. Well, let's get this summarized, Mr. Leech. Very simply state the reason why you know this particular book is officially approved by the Communist Party of the U. S. A. as a representation of its theory.

A. I have given my opinion on that.

Q. Summarize it.

A. I cannot go further than to say that on the basis that I believe that this volume, from its source of publication, and from the fact that this identical volume, or a volume very similar to it, and which I am convinced there has been no material change in the contents, was utilized by the Communist Party in 1936 and by myself for a course of instruction.

Q. Do you know when this book was first published in the United States?

A. No; I don't.

Q. Will you examine it and see if you can indicate from the book itself, or from the introduction, or anything in there, when it was first published in the United States and, if you can find out, also state when it was first published anywhere.

A. (examining book) I see that this book, from the fly leaf here, indicates it as being copyrighted in 1939.

Q. Will you examine this page (indicating) and see if there is any reference to events on December 11, 1937?

A. (examining book) Yes.

No evidence was proffered by the Government to show that a book of this nature, of which the book in evidence could have been a revised edition, was in existence prior to 1939.

Further illustration of this susceptibility of Leech to suggestion is unnecessary.⁴⁹ But ultimate judgment on Leech's credibility must still await examination of further evidence, for like one tin soldier falling in a file of soldiers, the necessary consequence of disbelieving Leech is to disbelieve others who also came forward with testimony on the issues involved in this proceeding. The question of Leech is not an isolated one; an appreciation of its significance calls for an examination of the background from which that testimony and other testimony sprang. This background is the part played in this proceeding by the Portland Police Department, Harper Knowles and Stanley M. Doyle.

Y. HARPER L. KNOWLES

I. GENERAL NATURE OF KNOWLES' ACTIVITIES

Harper L. Knowles is a resident of San Francisco and a member of the American Legion. During the 1934 maritime strike, certain prominent members of the American Legion in San Francisco became greatly exercised by the threat to peace and order that they believed was implicit in the strike. They were also under the belief that the strike, if not the work of Communist agitators, was receiving its militant direction from such a source. They organized a casual committee whose function was to press for the adoption of resolutions at the coming annual convention of the California American Legion which would extend the activities of the Legion to the investigation and suppression of subversive and un-American activities. Knowles was a member of this committee.

These resolutions were passed by the 1934 convention and resulted in the creation of the Subversive Activities Commission. Knowles became a member of this and its chairman in 1935. He continued as its chairman when in 1936 this commission was reorganized as the Radical Research Committee of the Legion.

The methods employed by this committee are of interest. Their headquarters were in the Veterans' Building in San Francisco. There, under Knowles' direction, were collected not only radical literature, but an elaborate index was kept with reference to individuals and organizations deemed to be radical. Hundreds of informants scattered throughout the State, most of them volunteers and many of them Legionnaires, supplied the central office with data on the doings of radicals and agitators in their various vicinities.

Some idea of the coverage of this committee can be gotten from a brief description of its contacts with other organizations. Beneath the central committee, which consisted of nine members, were 24 districts each of which had its own subversive activities committee. In addition the larger of the 530 posts in the State had similar commit-

⁴⁹ Leech's insistence that he made no alterations on the so-called Communist "affidavit" seem to derive also from this tendency. Uncertain on that point in the first instance Leech became positive in his denials as the issue, originally wholly immaterial, became a focal point of veracity. Similarly a review of the testimony on this "affidavit" confirms the impression originally made upon the examiner that Leech was led into an insistence that this "affidavit" was not an affidavit but a mere statement as a result of suggestive questioning from counsel and the examiner.

tees. The committee itself had close working arrangements with the Army, the Navy, the State Bureau of Criminal Identification, police departments, sheriffs' offices, the State Peace Officers Association, immigration inspectors, private detective agencies, manufacturers, labor and industrial associations, farmers protective associations, chambers of commerce, and civic, fraternal, and other veterans' groups.

It was stated that the committee's working arrangement with the Army and the Navy and the Immigration and Naturalization Service was a "one-way arrangement," that is, information was only supplied and not exchanged. However this may be, close working arrangements for the interchange of information existed with the other groups. William Young of the Young Detective Agency was a member of the San Francisco subversive activities committee, and Harry Machel of the Charles Watkins Agency was formerly a commander of Oakland Post No. 5. The cooperation of Mr. Morrill of the State Bureau of Criminal Identification is evidenced by the fact that he supplied an employee of the Legion upon Knowles' request with an automobile operator's license in a fictitious name in order to conceal her identity.⁵⁰ Captain Hynes of the Los Angeles Police Department conducted *ad hoc* investigations at Knowles' request.

Knowles' relations with the Portland Police Department were particularly intimate. Not only was that department officially instructed by its chief to cooperate with Knowles, but Detective Browne of that department was also the chairman of a Legion subversive-activities committee for Oregon similar to that of which Knowles in California was the head. He cooperated with Knowles in both capacities, and other officers of that department, such as Keegan and Bacon, supplied Knowles with information and were in turn supplied with information by Knowles. In addition, Stanley M. Doyle, then acting as a special agent for the State of Oregon under the special direction of Governor Martin⁵¹ and also engaged in ferreting out subversive activities, worked together actively with Knowles. He used Knowles' office on occasion, maintained some files there, gave him copies of reports that he sent to Martin's office, played around with him sociably, and even occasionally borrowed small sums of money from him.

Knowles also had intimate contacts with the Industrial Association of San Francisco and the Associated Farmers.⁵² The exchange of information that went on with these two associations, particularly the former, was even more extensive. Knowles would supply them with the records of individuals in whom the Industrial Association was interested and had a close working arrangement with officials in that association who were interested in combatting the spread of militant unionism. Knowles also received information from T. G. Plant of the Waterfront Employers' Association, particularly the

⁵⁰ Sec. 338 of the California Vehicle Code (as amended in 1935) provides: "It is unlawful for any person . . . (e) to use a false or fictitious name in any application for an operator's or chauffeur's license or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application."

⁵¹ The record leaves no doubt but that Doyle acted also in other capacities, but there is little evidence to indicate who his other employers or supervisors were. Bakesy testified that Doyle was employed by the Industrial Association of San Francisco and the Waterfront Employers' Association or by individuals of consequence in these associations, but Bakesy's information on this precise point is at best secondhand.

⁵² Knowles was employed in 1938 by the Associated Farmers for 3 months. In that capacity his work was substantially the same as that with the American Legion.

reports of one Bakesy, who was allegedly employed by Plant as an undercover operator.

The committee also worked in cooperation with the special agents of public utilities, telephone, railroad, and steamship companies, particularly with the chief special agent for the telephone company in San Francisco. Wire and wireless dictograph equipment was also available to the committee. Many of the assisting Legionnaires were also deputized law-enforcement officers. In addition, the committee had on its staff a number of undercover agents, operating as Communists or as militant unionists.

There is abundant evidence to indicate that the work of Knowles' committee came perilously close to that of those organizations whose sole effort is to combat militant unionism. The spread of unionism was watched with concern, particularly its spread into the unorganized agricultural areas of the State. A close differentiation was not always made between labor agitators and those truly engaged in subversive activities. Indeed, the close alliances that existed between Knowles' committee and the powerful employer associations lead to the conclusion that Knowles, whether wittingly or unwittingly, was frequently made the tool of their policies.

II. KNOWLES' EARLY CONCERN WITH BRIDGES' DEPORTATION

Knowles' relationship to the issues presented by this proceeding is not always clear. He was neither a candid nor a forthright witness. His memory tended too frequently to become clouded when answers might have proven to be too revealing. Recollection, even when it existed, tended at times to be suspiciously faulty. Because of these tendencies it becomes necessary on occasion to disbelieve him and also to treat a hesitant qualified admission tortuously wrung from him as far more significant than would be the case with an open witness.

Knowles' interest in Bridges goes back several years to some time soon after the 1934 strike. During 1935 and 1936 he had some correspondence with the Department of Labor in which he claimed to have given them enough information to prove that Bridges was a Communist and in which he accused the Department in no uncertain words of coddling Communists. At the 1936 convention of the American Legion, an alleged report of the legal adviser to the Department of Labor was circulated quite widely among the members.⁵³ That report reviewed Knowles' correspondence with the Department, concluded that the type of evidence he submitted was wholly worthless, that the Department had no evidence upon which to proceed against Bridges, and criticized Knowles' attitude as prejudiced and his language as "intemperate and overbearing."

III. KNOWLES' LATER TACTICS

Knowles' activities after that report are marked by a change in tactics. Thereafter he no longer continues to submit to the Department unfounded rumors and hearsay to the effect that Bridges is a Communist, or extracts of speeches by Bridges. Instead efforts are

⁵³ No evidence was introduced to establish the fact that this report was authentic. Knowles, however, believed that it was, and for its materiality in this connection it is Knowles' belief as to its authenticity that is significant rather than its authenticity.

begun to be made to furnish proof along different lines. Also about this time the Portland police begin to take an active and energetic hand in the Bridges' matter and Doyle begins to bend his energies toward the same end.⁵⁴ Knowles' policy in this connection was to fish in troubled waters. Several incidents are worth reviewing in this connection in order to get a glimpse of the methods employed by Knowles and his coworkers.

IV. THE COX STATEMENT

Ivan F. Cox held the position of financial secretary of the San Francisco Longshoremen's Union. Some time in 1936 or 1937 he became involved in trouble because of an alleged shortage of funds. Cox seems to have held a belief that he was being victimized by the union,⁵⁵ and he therefore seemed to be a likely source from which information concerning Bridges might be forthcoming. Certain it is that many conferences were held with Cox in which Knowles, Doyle, Barker of the Industrial Association, and others participated.⁵⁶ Two uses for Cox were devised. One was to get him to make an affidavit against Bridges; the other was to file a suit for conspiracy against numerous union leaders, charging them with being Communists and as such attempting to destroy Cox, and claiming damages for \$5,100,000. The latter proceeding from the standpoint of the technique employed is of interest. The source of the idea is not discernible from the record, nor is it clear to whom this \$5,100,000 was to go if any such judgment could be obtained. The suggestion was made that \$5,000,000 was to be turned over to the State and \$100,000 was to go to Cox as an inducement for revealing this conspiracy. On this particular point the record shows that Knowles lapsed into his customary aplasia; but Knowles did testify that he believed that Doyle offered Cox as an inducement in this matter a job with Edward Vandeleur, an A. F. of L. leader, a job that later actually materialized. The complaint when filed was printed and widely distributed. Knowles was active in promoting that distribution.

Cox also gave an affidavit against Bridges. This affidavit was not introduced in evidence nor is the record clear as to the circumstances under which it was given. The record does disclose that at about this time Mr. Bonham, the Director of the Immigration and Naturalization Service for the Pacific Northwest, Doyle, Captain Keegan, Knowles, Mr. and Mrs. Cox and a stenographer met in a hotel room in San Francisco and that on that occasion Cox made a statement. Knowles testified that this statement was on Cox's "experiences" with Bridges.

No such statement was introduced in evidence. Cox later publicly repudiated all the statements he had made to Doyle and to Bonham. It is of interest to note that at the taking of this statement in San Francisco, neither the law-enforcement officials of San Francisco nor the immigration authorities of San Francisco were

⁵⁴ Knowles met Doyle in 1935 but the period of Knowles' close association with Doyle begins later.

⁵⁵ It is impossible to determine from the record whether this belief was Cox's own or whether he was encouraged by others to entertain that belief.

⁵⁶ Knowles testified that he and Doyle checked the story of victimization, pooled their information, and that these checks substantiated Cox's story.

present. Instead, the Seattle director, whose jurisdiction extends to Portland but not to San Francisco, and the Portland Police Department officiated.

V. CONTACT WITH FERGUSON

J. E. Ferguson was the business agent of the Marine Firemen's Union. In 1937 a difficulty arose in San Francisco between the Longshoremen and the Sailors Union of the Pacific and in that contest the position of the Marine Firemen became crucial. Ferguson wished to have the Marine Firemen side with the Sailors, and Ferguson in that predicament turned to Doyle who in turn discussed the matter with Knowles. Doyle, a Dr. Malcolm,⁵⁷ and others met and evolved a plan whereby membership books in the Marine Firemen's Union would be distributed to W. P. A. workers. These workers would then vote to support Ferguson on that issue. This is what occurred later.⁵⁸ Knowles' part in this proceeding is indefinite. He knew of it either before or after its occurrence and discussed the matter with Doyle and Malcolm. The incident is of significance inasmuch as Ferguson appears later as an important actor. Ferguson was later expelled from the Marine Firemen's Union. Ferguson also gave Keegan some kind of an affidavit against Bridges. Whatever this was, it was not introduced in evidence.

VI. CONTACTS WITH MILLS

Knowles also was aware that one Herbert Mills had given an affidavit on Bridges through Doyle. Mills was a ne'er-do-well laborer who thereafter in Portland, despite certain protection afforded him by some of the Portland police, got into difficulties with the law. At the time of this hearing Mills was not to be found and his affidavit was not proffered by the Department of Labor. Mills had later threatened to expose Doyle if considerations that Mills alleged Doyle had promised were not forthcoming. Mills made this threat in a letter addressed to Knowles on September 12, 1938.⁵⁹

Knowles' testimony as to what he did with this letter is of interest. He states that he "did nothing about it," that he did not turn it over either to the Portland Police Department⁶⁰ or to the Immigration Service, but that he just filed it and did not let anybody know anything about it. Actually he first gave it to Mumpower, a Portland police detective, who happened to be in San Francisco. Mumpower in turn telephoned to Captain Keegan about it and the latter expressed doubts as to its authenticity. Mumpower then compared it with Mills' handwriting and satisfied himself that it was authentic. Knowles then related all these facts to an immigration official in San Francisco and permitted him to make a copy of Mills' letter. It is

⁵⁷ Malcolm was a member of one of the subordinate subversive activities committees of the American Legion and worked quite closely with Knowles.

⁵⁸ Knowles only admitted that he "believed" these matters took place. But since Knowles talked over these matters with Doyle and talked to Malcolm a day or two after, his "belief" would seem to have a fair basis of fact.

⁵⁹ The letter reads in part as follows: "Please be advised: unless the agreement between Mr. Doyle and myself is fulfilled immediately I will call upon Miss Perkins, Labor Department, Washington, D. C., for an investigation, as it was through a branch of her department that I became involved in the deportation affair of Harry Bridges."

⁶⁰ Knowles was asked the direct question as to whether he had consulted Mumpower in connection with the letter.

incredible that this recent incident escaped Knowles' memory. It was impossible to listen to Knowles' two accounts of this incident without being convinced that on occasion he lied when he dared to "and conveniently forgot matters when an outright denial might make for subsequent embarrassment.

VII. OTHER CONTACTS

Knowles also got information directly or indirectly from one Waugaman, a union official. Knowles discovered later that Waugaman was being threatened with prosecution by a bonding company because of his misuse of union funds. Knowles again got reports from Arthur Scott alias Kent alias Margolis, a reputed Communist but an undercover agent for other employers, who later was accused of many burglaries, convicted of two and while in jail was interceded for by Captain Keegan. Scott had also given an affidavit that Bridges was a Communist, an affidavit which again was not proffered in evidence. Knowles also received reports from one Musbak, an undercover Communist informer. Musbak was subpoenaed by counsel for the alien but the subpoena was not pressed after discovery of the fact that Musbak was in jail for banditry in Los Angeles.

VIII. RELATIONSHIP WITH LEECH

This recital suffices to give some indication of Knowles' methods, sources of information and associates. It makes significant Knowles' indirect contact with Leech. The circumstances of that contact are clouded by the mists of Knowles' memory. Certain it is that Knowles saw Browne at a time that is close to the time of Browne's visit to Leech. Certain it also is that at this period Knowles and Doyle were quite intimate in their working association. On two items of evidence there is no doubt. The first is that Captain Hynes of the Los Angeles Police Department gives in reply to a confidential inquiry made of

"Another example of the incredibility inherent in Knowles' testimony is the following: Knowles admitted that he "had been one of the foremost people on the Pacific coast who had been demanding a hearing against Bridges." His activities in that connection have already been summarized. He admitted that Doyle informed him, within a week or so of the event, that Doyle had gotten an affidavit from Leech. Yet the following colloquy took place:

"Q. Did he [Doyle] tell you how he came to get such an affidavit?"

"A. No."

"Q. Did you ask him?"

"A. No."

The examination continues:

"Q. And it is your testimony that that [the time when Doyle tells him of the Leech affidavit] is the first time that the name of Leech meant anything so far as conversations or correspondence are concerned?

"A. Yes."

"Q. And the first time certainly that the idea of Leech being a witness or an affiant against Bridges came out?"

"A. Yes."

The next day Knowles' letter to Captain Hynes, of the Los Angeles Police Department, was produced which shows that a month earlier Knowles inquired of Hynes with regard to Leech. This letter from Knowles says expressly: "3. In your opinion, could Leech testify of his own knowledge that Bridges is a Communist Party member?"

Similarly in the light of the inducement admittedly made by Doyle to Cox and the allegations made by Mills against Doyle, compare the following:

"Q. [by Mr. Shoemaker]. Have you any knowledge, without regard to how it was acquired, that any person was offered any inducement to secure an affidavit in the Bridges case?"

> "The WITNESS. Read that, please.

"[The question referred to was read by the reporter as above recorded.]

"A. I have no knowledge of it.

"Trial Examiner LANDIS. By that you mean the actual witnesses that have appeared in this proceeding?"

"Mr. SHOEMAKER. No; anyone.

"The WITNESS. Anyone?"

him by Knowles on July 15, 1937, such information as his department has with reference to Leech, information that indicated Leech was also in trouble.⁶² The second is that Doyle on August 20, 1937, writes Hynes in part as follows:

On the matter that William C. Shurley and I investigated, I have the promise of the person in question that he believes that a trip to the piney regions of the Northwest would prove beneficial to him and his family and I will probably make the journey next week, if I am able to provide the "means" for transportation.

I hope that Bill Shurley weathered the oral hurricane that no doubt obtained during the examination last Wednesday.

Both Harper Knowles and the writer want to express our grateful thanks and appreciation for the courtesy I received to both yourself and Bill Shurley.

That Leech to Knowles was another fish in troubled waters is amply clear. Also it is apparent that Knowles thought in terms of utilizing some means to get an affidavit from him.⁶³ Leech was in difficulty and Leech as an important ex-Communist might, if he testified, carry great weight. It was an opportunity of the type that might be seized by Doyle.⁶⁴

Z. THE PORTLAND POLICE DEPARTMENT

I. INTRODUCTORY

The activities of the Portland Police Department furnish some background to both the Leech testimony and the testimony of other witnesses. The concern of the State officials of Oregon and the police officials of Portland with communism and radicalism derives in part from the fact that under the recently repealed criminal syndicalist laws of the State the advocacy of Communist doctrine

⁶² A portion of this letter is quoted in note 53, *supra*.

⁶³ The chain of inference is plain for these are the admitted facts. Knowles had seen Browne before and/or after Browne's return from Los Angeles. Then follows Knowles' inquiry of Hynes. Knowles is in intimate contact with Doyle. Subsequently Doyle gets Leech to agree to testify.

⁶⁴ Knowles' own estimate of Doyle is illustrated by the following:

"Q. Did Doyle ever tell you that he had offered Bakesy some money to make an affidavit, and Bakesy said 'Nothing doing'?"

"A. No."

"Q. You don't recall?"

"A. I don't recall."

"Q. It might have been told you but you don't remember?"

"A. I don't think it was."

"Q. But it is possible that it was?"

"A. Possibly, yes."

By Trial Examiner Landis: Q. That answer interests me, Mr. Knowles. "Possibly."

"A. Your Honor, he is asking for a conversation—

"Q. (Interrupting) Yes; I quite agree, but I am just interested in that answer. To interpret that leading me to this type of inference, Mr. Knowles, and I just want to tell you the possibilities of my inference along that line—simply the possibilities. You and Doyle knew each other quite well."

"A. Yes."

"Q. You associated with each other in this particular business, and yet, even though your memory on these points is somewhat forgetful on occasion—I am not critical of it—you are willing to leave an inference in the record that Doyle was the kind of man who might have offered another man money to make a statement under oath?"

"A. I don't think that is the inference I intended, at least."

"Q. I think you had better look over that testimony pretty clearly."

"A. Counsel asked me if it 'might have been possible.' (1) But, surely, Mr. Knowles, if you are in a sense a sort of business associate with one man and somebody else makes an accusation of a very serious character against him, if you know that man well, you have been associated with him for years, was your reaction that such an accusation might possibly be true? Is that your reaction to that situation?"

"A. Well, my reaction would be that he hadn't made such an offer. That would be my reaction."

"Q. But you wouldn't put it beyond the bound of probability?"

"A. It is possible; yes. I don't know."

This admission taken by itself is meaningless but the circumstances of this colloquy, only part of which are revealed in the printed record, were such as to invite an outright and indignant denial by Knowles. That denial was not forthcoming.

was regarded as criminal. See 1937 Oreg. Laws ch. 362, repealing 1933 Oreg. Laws ch. 459, see also *State v. DeJonge*, 152 Oreg. 315, 51 P. (2d) 674, reversed in *DeJonge v. Oregon*, 299 U. S. 353; *State v. Pugh*, 151 Oreg. 561, 51 P. (2d) 827; *State v. Denny*, 152 Oreg. 541, 53 P. (2d) 713. To combat the spread of communism special agents such as Doyle and under-cover operators such as Milner were employed by the State. The Portland police adopted similar tactics. For some years one Merriel Baen was employed as an under-cover operator by them. Similarly Browne, Watson, Odale, and Mum-power of that force were active in getting evidence on Communists, Browne being also the head of an American Legion committee on subversive activities.

II. KEEGAN'S GENERAL ATTITUDE

Capt. John J. Keegan is the Chief of Detectives of Portland. He was subpoenaed at the request of the alien and testified in this proceeding concerning the activities of the Portland police in connection with Harry Bridges. It is primarily from Keegan's testimony that the activities of the Portland Police Department in this connection have to be reconstructed.

To question the testimony of such a significant law-enforcement official as Keegan is a serious matter; but the conclusion is inescapable that his testimony is far from reliable. As will be seen, not only was Keegan's respect for an oath negligible, but he was again and again faced with testimony so variant from that which he had given that he was forced either to alter his original story or to make its hollowness patent by the crudeness of his subsequent explanations.

Keegan originally sought to minimize his activities in connection with investigating Bridges. It was only natural that he should make this attempt for Bridges' alleged communism was a subject matter for the concern of the immigration authorities rather than the local police.⁶⁵ Cooperation between the Federal and local authorities is common and is obviously desirable, but the situation is most unusual when the local police spend considerable sums of money and carry on a wide investigation through a large area in order to get evidence that is of utility only to the Federal authorities. Keegan claimed originally that his investigation of Bridges was only the normal investigation that the police would ordinarily undertake in such matters⁶⁶ but the evidence belies that claim.

⁶⁵ It may be imagined that the Portland police were conducting an investigation of Bridges in regard to other matters than his alleged communism, but it is impossible to entertain this belief in the light of the fact that always the evidence which was sought related to Bridges' alleged Communism.

⁶⁶ Keegan's claim in this regard is set forth in the following testimony:

"Q. [By counsel for the alien.] But this was a little different from the ordinary crime?"

"A. The same as far as I was concerned; just another investigation."

"Q. Just another investigation as far as you were concerned?"

"A. As far as I was concerned; yes."

"Q. No special interest in Bridges?"

"A. Not as far as I was concerned personally; no."

"Q. You didn't have any strong feeling that here was an investigation which required immediate attention and unusual attention?"

"A. Not necessarily no. Bridges isn't any more to me than anybody else."

"Q. You would class the investigation of Bridges, perhaps, along the same lines and in the same category as maybe an investigation of say breaking into a house in Portland?"

"A. Just to me another investigation."

"Q. Just about the same?"

III. KEEGAN'S INVESTIGATORY ACTIVITIES

Only the broad outlines of this investigation can be set forth. It begins early in June of 1937, at the time when the Maritime Workers' Federation was holding its annual convention in Portland. On that occasion Doyle called upon Keegan, told him of his assignment to investigate Bridges, and was assigned Browne as an aide. While Keegan generally investigated the convention, Doyle and Browne concealed a dictaphone in Bridges' room which was, however, discovered.

Keegan next transferred the activities of his men to California. This may have been done on the suggestion either of Doyle or Knowles. Though Keegan claimed that he had not cooperated with Knowles in the Bridges' matter, the record establishes that Keegan was then in touch with Knowles and that his chief, Niles, had instructed Keegan and Odale to cooperate with Knowles.⁶⁷ Pursuant to some suggestion Keegan sent Browne on at least two trips to California in late June and July of 1937.

On one of these trips Browne saw Knowles and on the other he saw Doyle. He probably saw both of them on both occasions for Browne seems to have made Knowles' headquarters his while he was in San Francisco.⁶⁸ One of these trips took Browne down to see Leech in Los Angeles. Browne reported to Keegan the results of his visit. This report fails completely to tally with Leech's account of Browne's visit. According to Keegan, Browne reported that Leech was willing and ready to testify or as Keegan put it: "I think Browne sold him America the first trip." This variance is in itself unimportant. What is important is that Browne's trip was at Keegan's direction,⁶⁹ that the expenses of that trip were paid by Keegan,⁷⁰ and that Browne on this trip was in contact with Knowles and also, probably Doyle.

"A. Yes. He is no more important to me than any other investigation. They are all important as far as I am concerned, every investigation I have to make."

"Q. The whole case, really, I mean, as far as deportation of Bridges is concerned, and the investigation that was carried on by you in that connection, was a deportation case within the jurisdiction of the Portland Department of Immigration? Correct?

"A. The jurisdiction of the Immigration Department.

"Q. Yes; that was a correct statement, wasn't it?

"A. It is their jurisdiction, their authority. The local authorities have nothing to do with it.

"Q. Do I properly describe the case as you regarded it?

"A. Describe it again. Mr. Gladstein: Will you read it? (The second from the last question and answer were read by the reporter as above recorded.)

"Trial Examiner LANDIS. I think you can rephrase that question better, Mr. Gladstein, because an answer either yes or no to that—it is too full of pregnant phrases to make me sure what an answer of yes or no would mean."

"Mr. GLADSTEIN. All right.

"By Mr. GLADSTEIN. Q. It is simply this, Captain. I understood from your testimony that you figured that the Bridges case and the investigation of Bridges was regarded by you as a deportation case?

"A. As far as he was concerned personally: yes.

"Q. And, therefore, a case within the jurisdiction of the Department of Immigration? . . .

"A. Absolutely."

"Chief Niles on July 15, 1937, had written Knowles that he had given such instructions to Keegan and to Odale. Faced with this letter after his original denial that he had cooperated with Knowles, Keegan stated that he had never received such instructions from Niles. Keegan's statement does not convince, for there is too ample evidence of actual cooperation between the two.

"This would not only be natural because both Knowles and Browne were chairmen of their respective State subversive committees, but it seems established from the fact that when Keegan sought on July 7, 1937, to get into contact with Browne in San Francisco, he telephoned Knowles to give instructions to Browne."

"Keegan testified that no officer under his direction could leave the city without his permission. . . .

"Keegan stated that all the traveling expenses of his men when in line of duty were met by him. No vouchers were requested of him, and Keegan, in turn, made no detailed statement of the expenses of his men to the chief of police."

On the other of these trips Browne was put into contact with Herbert Mills, through Doyle in San Francisco. Later Mills was brought to Portland and taken over to the immigration authorities, where he gave an affidavit against Bridges. Mills thereafter remained in Portland for a while. He was soon arrested for disorderly conduct and found guilty, but sentence seems to have been suspended. He then broke his leg falling through a skylight in an effort, according to Keegan, to steal beer. Recovered from this, Mills, "took a shot at a fellow," was convicted of assault and battery, and sentenced to imprisonment for 6 months. Before this last event he gave Keegan an affidavit against Bridges.⁷¹ While Mills was in jail he gave a contrary affidavit to one Anderson, alleged to be an attorney for the Communist Party. Released from jail, Mills disappeared, later to write from Pennsylvania his threat to expose Doyle if Doyle would not live up to his agreement—a matter already adverted to.

Keegan also sent Mumpower to San Francisco and Los Angeles sometime in 1937 and there is evidence to show that Mumpower was in San Francisco on this same quest later in 1937 and also in 1938. What the purpose of Mumpower's visits was is not disclosed save that they are both concerned with the Bridges' matter.

Keegan and Mumpower also went to San Francisco in connection with the Cox statement, where they met Knowles, Doyle, and Bonham, a matter that has already been detailed. The only new matter in this connection that is revealed by Keegan is that he was in San Francisco on this occasion in consequence of a request from Bonham, which indicates some rearrangement between Knowles or Doyle and Bonham, or, at least, a working arrangement on the Cox matter between Knowles and Doyle in San Francisco, Keegan in Portland, and Bonham in Seattle.⁷²

Keegan was also in touch with J. E. Ferguson. Ferguson talked to Keegan on several occasions about Bridges and finally one day late in 1937 or early in 1938 gave Keegan some evidence on Bridges, which Keegan thought significant enough to lead him to take Ferguson over to the immigration headquarters in Portland.

⁷¹ This affidavit was introduced by Keegan in evidence before the House Committee on Un-American Activities.

⁷² Keegan originally sought to give the impression that he never worked with Knowles.

"Q. Have you ever had any contact with Harper Knowles on the *Bridges case*?"

"A. No. I don't believe I ever have."

"Q. That is, you have never talked to him about the case or corresponded with him on it?"

"A. No."

Compare also the following:

"Q. Yes, and you were never requested to go yourself, or send somebody else, to other cities—San Francisco, Salt Lake, Los Angeles—places like that, to either participate in conferences or interview witnesses or gather evidence against Bridges; and never requested by Bonham or Norene?"

"A. No, no."

And for further misinformation in this regard compare the following:

"Q. Did you yourself take any trips other than this—well, you have already described the trips Browne took, and Mumpower took one. Did you yourself take any trips in connection with the *Bridges case*, say, conferences on it, or yourself go to any witnesses?"

"A. No."

"Q. You made no such trips?"

"A. No."

"Q. Either to San Francisco or to Seattle or to Los Angeles or anywhere?"

"A. I have been to Los Angeles and San Francisco, and Seattle too."

"Q. I mean—"

"A. During this investigation, but not particularly to gather evidence against M. Bridges."

"Q. In other words, you yourself did not leave Portland, for example, and take the same kind of a trip that Browne did to look for a witness?"

"A. Oh, no."

"Q. And you yourself never went to any, let us say, conference in San Francisco where the purpose was to lay plans for the presentation of the evidence in the *Bridges case*?"

"A. No, sir."

Keegan never met Arthur Scott. He got reports from him, however, and evidently thought highly of Scott's evidence. When he was informed by the Beverly Hills police that Scott was wanted for burglary, he communicated with the chief of the Los Angeles police, saying that this request of him looked phony and seemed "as if someone is trying to locate Scott through this department for the reason that he has been playing ball with us." He adds: "I would like to ask if you will make a confidential investigation to see whether or not these are the true facts regarding Scott as to his burglary activities, as you are well aware what we are trying to do in regard to Harry Bridges."

Keegan's irresponsibility under oath is revealed in connection with another incident in regard to Scott. After Scott was convicted and imprisoned, an application was made by Scott for commutation of sentence. Keegan not only filed an affidavit in support of that application but also got Browne, Odale, Mumpower, and Governor Martin of Oregon to file affidavits. Despite the fact that Keegan had never met or seen Scott, he swears in this affidavit:

I know the petitioner. * * * I am convinced, from my personal observation of Kent [alias Scott] and my knowledge of the work he has done, that without him the immigration authorities would have been at a great loss to interpret the activities of the Communist Party and members thereof, and particularly the acts of persons sought to be deported by reason of their connection with the Communist Party.

Keegan also was in intimate contact with Aaron Sapiro, a Los Angeles attorney and a witness called by the Government in this proceeding. Sapiro's relationship to this proceeding will be discussed later. It is sufficient merely to note at this stage Keegan's intimacy with Sapiro and his efforts to encourage Sapiro, who had already furnished Keegan with a copy of Scott's affidavit against Bridges, to continue with his good work. Keegan had Sapiro brought up from Los Angeles to Portland to discuss aspects of the Bridges matter and in that connection through Mumpower he furnished Sapiro \$50 for air transportation from Los Angeles to Portland and back.

IV. KEEGAN'S MISREPRESENTATION OF THE ACTIVITIES OF THE PORTLAND POLICE

This recital is sufficient to show Keegan as one of the prime movers in the effort to bring about the deportation of Bridges. It illustrates his close connections with Doyle and Knowles. It illustrates also that his claim that the Bridges' investigation was a normal, routine investigation is pure fiction. The question naturally arises as to why Keegan made and insisted so strenuously on this claim.

Keegan's testimony from the beginning shows an effort to conceal his activities and the activities of his men. True, lie and they were in contact with witnesses of very doubtful character. But it is not necessarily odious for the police to seek evidence from men of questionable character and with criminal records. The administration of justice frequently requires resort to such aids. A reason that could motivate such insistent concealment was that the means employed were in themselves disreputable, means that might discredit the evidence that had been adduced.

Keegan's efforts to misrepresent the position of the Portland Police Department in this connection have only thus far been touched upon.

Their extent truly amazes. Keegan started off with the contention that the Bridges' investigation for him was simply an ordinary routine investigation. Not only do the activities of his office disprove that to be the fact, but his own conception of the significance and character of the investigation, as disclosed in the record, proves that from the beginning he tried to mislead the examiner in this respect. His intercession for Scott with Chief Davis of the Los Angeles police as evidenced by his letter of December 4, 1937, has already been noted. Already, on October 4, 1937, he had written Davis requesting Davis to find out if one Thorne could not be gotten to furnish evidence against Bridges. In that letter he says: "No doubt you are aware of what we of the Portland Police Department are attempting to do regarding Harry Bridges. * * * If this [getting a statement from Thorne] can be done, I would ask you to do this as soon as possible as things are moving very rapidly and we expect drastic action soon, but as you are aware, this is not an ordinary Communist case." On April 20, 1938, he writes in a postscript in a letter to Sapiro: "Aaron. After this was typed I heard from Los Angeles. Our mayor and Governor are calling Copeland at once, to demand a hearing. The New Orleans case [*Strecke v. Kessler*, 95 F. (2d) 976] is so different from ours. They did not ask a thing regarding the com. party in that case, but we sure will and prove every word. Jack Keegan!" On December 7, 1938, Keegan appears before the Dies committee, traveling on funds supplied by the mayor of Portland, to testify that his office had found Bridges to be a member of the Communist Party. Yet on August 9, 1939, testifying at this proceeding he says:

Q. [By counsel for the alien.] Just another investigation, as far as you were concerned?

A. As far as I was concerned, yes.

Q. No special interest in Bridges?

A. Not as far as I was concerned personally, no.

Q. You didn't have any strong feeling that here was an investigation which required immediate attention and unusual attention?

A. Not necessarily, no. Bridges isn't any more to me than anybody else.

Another sample of Keegan's testimony in this connection is of interest. Keegan, it will be remembered, sent his own men to San Francisco and Los Angeles to contact witnesses. Asked why he employed his own men for this purpose at unquestionably unusual expense, he stated that he did so because he had confidence in these men and had never to his recollection in such instances sought the aid of other police departments in Los Angeles, San Francisco, or Seattle. Yet there

"A. I just said a while ago that I would much rather have it done by my own members—members of my own department, rather.

"Q. Men in whom you had a certain amount of confidence, and who you felt were better equipped to handle this kind of an investigation in the Bridges case than anybody that the Immigration Department or the police department in some city might send?" is that correct?

"A. Yes; not knowing who the men were, what their ability was.

"Q. For example, if it was possible for you to, let us say, contact the immigration office in San Francisco and say that you had a tip, maybe, that a man named John Doe in San Francisco, or Jim Mills, might have some information on the Bridges case, and you suggested that they send somebody out to see him; you never did anything like that?

"A. Not that I can recall. I don't believe I did.

"Q. Either in San Francisco or Portland or Seattle or Los Angeles?

"A. Not to my knowledge. I don't believe I did.

"Q. Well, it would be contrary to the way in which you would handle a thing of this kind? That is, you would regard it as important to you to send a man like Browne, or a man like Watson or Mumpower, or somebody like that, that you knew personally? Is that correct?

"A. I wouldn't send Watson, no. Watson, you must bear in mind—he was not a police officer.

"Q. Well, let us take Watson out of that question, and the answer would be that you wouldn't ask just anybody in any of these immigration offices up and down the coast;

after he was shown to have done so in connection with the request made on October 4, 1937, of Chief Davis of the Los Angeles Police Department in connection with James Thorne.

V. KEEGAN'S ESTIMATE OF DOYLE

Keegan again worked closely with Doyle. Asked with reference to his attitude toward Doyle he made the following answers:

Q. [By counsel for the alien.] Well, when he [Doyle] said he wanted help, I suppose you wanted to know what this help was to be, didn't you? Or did you repose perfect confidence in the man?

A. Absolute confidence.

Q. You had absolute confidence in Mr. Doyle?

A. Yes, sir.

Q. And you always felt he was a pretty reliable man?

A. Yes, sir.

Q. No question about that in your mind?

A. No; no question at all about Larry Doyle in my mind.

Q. You still feel the same way today as you did then?

A. I do.

A few minutes later the subject was again touched upon:

Q. [By counsel for the alien.] You had a friendly relationship, you considered him a trustworthy sort of person, and one in whom you could repose confidence?

A. Absolutely.

Q. Is that right?

A. Yes, sir.

Q. You considered him a man of integrity?

A. Absolutely.

A third time the subject was raised:

Q. [By counsel for the alien.] You never told anybody or made any intimation to anyone that Doyle was not a man who could be trusted? That has never happened, has it?

A. No.

Q. You never felt in your own mind that anything Doyle might do—I mean—let us put it this way: You have never come to believe from anything you have come to learn about Doyle that he might do something, let us say, with respect to gathering evidence in the Bridges case that would be illegal or improper?

A. No. I never had that suspicion of Larry Doyle.

Q. Never had the suspicion of him that he might be crooked or do a crooked thing?

A. No, sir.

Q. And you never expressed that opinion orally or in writing to anybody. Is that correct?

A. I always had the highest regard for Larry Doyle.

Q. And you have never expressed any contrary opinion to anybody?

A. No.

Q. Is that correct?

A. Not to my knowledge.

Q. Is that true?

A. No; I never did.

you would prefer, in view of your consideration of the case and its importance, to send a man like Browne and Mumpower; is that correct?

A. Absolutely.

Q. And it is your best recollection, is it, that you never asked, let us say, somebody from the San Francisco Police Department or the Los Angeles Department to go and interview a witness or make a contact for you in connection with the Bridges case?

A. Not to my recollection, I don't believe I did.

Q. And the same would be true, I suppose, of the immigration officers in San Francisco and Los Angeles?

A. Yes.

Some days earlier, at the time when Sapiro was on the stand two letters from Keegan to Sapiro had been introduced in evidence. The first of these, written on January 20, 1938, reads as follows:

DEAR AARON: A few days ago I wrote a letter to Doyle thanking him for the material he did not send to me. I did not mention any letters received from you but in his reply he quoted your letter to him, and in part he says:

"Your Jew 'boy friend' may think he is pretty hot stuff but here is one Irish Gentle that doesn't subscribe to the idea and, further, Sapiro can go to hell with his affidavit [the Scott affidavit] as I have a copy of it and I'd recommend that he and some of his associates not hold their breath until I do one damn thing again that will aid them. I am sending any material that I may acquire to either R. P. Bonham or Roy Norene, and I again state that my purpose in this matter is solely to deport Bridges and I am entirely without selfish interest in this endeavor. I neither expect or ask any reward or pay, neither do I seek any publicity for anything I may have done or will do."

In my opinion I think that you are a damn sight faster than he. So show him some fast work.

I doubt the statement made by Larry [Doyle] that he neither expects or asks any reward of pay.

The second, written on January 26, 1938, reads:

Received your letter and hope you run across Larry [Doyle] while in San Francisco. I know your meeting should be very friendly. * * * As to me being friendly with Doyle, that is out, and I don't trust Doyle, I am not working with Doyle, I did not give him a copy of the statement [of Arthur Scott] and I did give a copy to the gentleman you told me to give one to—Captain Goff of the San Francisco Department. If Larry has a copy, I do not know where he got it, as he did not get one from me, and will not get one from me.

If I ever did have any confidence in Doyle, it surely has been shaken and absolutely broken. I lost all faith when he sent me that last letter, a part of which I quoted to you. I hope that you and I will continue on friendly terms as it looks now from latest reports that we are getting some action on Bridges.

Following the noon recess of an hour Keegan's testimony on this subject changed remarkably. This testimony, though lengthy, requires quotation, for on occasion it is replete with qualification—a rare habit on the part of Keegan.

Q. [By counsel for the Allen] Captain, are you sure that you never expressed to anybody an opinion on Doyle to the effect that Doyle was a crook and was not to be trusted?

A. I don't think I expressed that to anybody in just that term, that he was a crook and could not be trusted, I might have ribbed somebody to throw some pep into them or something.

Q. Did you ever tell Aaron Sapiro in a letter that you thought Doyle was a crook and was not to be trusted?

A. If you show me the letter I will see.

Q. I want your recollection first. You testified today that your faith and confidence in Doyle's integrity and honesty was such that you had never expressed a bad opinion of him. What is your recollection?

A. Not to my recollection I don't think I did and mean it. I might have ribbed somebody which I do in a lot of cases to pep them up a little bit.

Q. During the noon recess did you discuss with anybody any of the testimony you had given this morning?

A. No; I don't think I did; not to my knowledge and recollection.

Q. Did you discuss it with any of counsel for the Government?

A. The testimony I gave here?

Q. The testimony you gave this morning?

A. I don't think I did.

Q. Did you discuss with anybody the testimony that you gave this morning on Doyle?

A. Not that I can recall.

Q. You should be able to know positively.

A. Well, we talked about a lot of incidents.

Q. Did you talk to somebody about whether you had written Sapiro on the subject of Doyle?

A. I don't believe I did. I don't recall speaking to anybody about Sapiro that I can recall right now.

Q. That you cannot recall?

A. No.

Q. It is possible that during the noon hour you did discuss with somebody the testimony that you gave regarding your opinion of Doyle?

A. No, no, no; I don't think so.

Q. Somebody mentioned to you perhaps that you had written a letter to Sapiro on the subject of Doyle?

A. Not that I can recall; no.

Q. You cannot recall now whether somebody during the noon recess discussed that subject with you?

A. No, sir.

Q. You cannot recall that?

A. No.

Q. It is possible that it might have happened?

A. I don't know. I don't recall it.

Q. During today's recess did you discuss any of your testimony with counsel for the Government or any of them?

A. I don't think I did.

Q. Did you discuss anything concerning your testimony on Doyle or Sapiro or Leech?

A. Not that I recall.

Q. What did you talk about?

A. Generalities; talked about this weather out here.

Q. Can you remember anything you talked about?

A. Not in particular.

Q. Nothing at all?

A. Nothing that I should remember, that I figured was of any importance.

Q. Can you remember one single thing that you discussed perhaps with Mr. Bonham during the noon recess?

A. We were talking in there at the table, telling stories.

Q. Are you sure, are you positive, that you did not talk to Mr. Bonham or Mr. Norene or to Mr. Shoemaker or to anybody else concerning any testimony that you have given me this morning?

A. I don't believe I did.

Q. But you are not certain?

A. I don't believe I did.

Q. But you are not certain?

A. I don't think I talked to them about the case, to my knowledge.

Q. You made the statement that you believe—this is the effect of your statement—you believed that Doyle was working on the Bridges case with the expectation of a reward or receiving some pay?

A. Does that say that in there?

Q. Did you have it in your mind to convey that?

A. Does that have—read that letter, there. Does it say that there?

Q. Did you?

A. No, sir.

Q. What idea did you intend to convey when you said, "I doubt the statement made by Larry that he neither expects or asks any reward or pay"?

A. I don't know any particular reason, unless it was to pep up Mr. Sapiro there, to get Doyle to get more evidence.

Q. To do what?

A. The same as with a baseball player; pep him up.

Q. How do you mean?

A. Bawl him out, along that line.

Q. Bawl Sapiro out?

A. Him and Doyle to have that little argument there.

Q. What did you intend to accomplish with Sapiro by making that statement about Doyle?

A. Get out more evidence from Larry and vice versa.

Q. You wanted Sapiro to work a little harder and a little faster to get evidence; is that it?

A. To think harder, yes; and to get evidence.

Q. But you didn't intend that Mr. Sapiro should understand that you believed that Doyle was the kind of a man who would work on the Bridges case for pay; you didn't want him to get that idea?

A. No, sir. As far as I was concerned, Harry is honest and trustworthy.

Q. You have always felt that?

A. I do. I do yet.

* * * * *

Q. You wanted to play Sapiro against Doyle, is that the idea and pep them both up; pep both of them up.

A. That was my intentions; yes.

Q. So that they would both be more productive of evidence on the Bridges case?

A. To get busy; yes.

Q. Now, in exhibit 19, a letter that you wrote to Sapiro on January 26, 1938, you said, "As to me being friendly with Doyle, that is out, and I don't trust Doyle." What did you mean by that? What you said?

A. Just what I repeated a minute ago.

Q. Just what you said.

A. Yes.

Q. Did you mean the things you said in this letter?

A. No, no; that was just [pause].

Q. You didn't mean that?

A. Not definitely, no.

Q. What do you mean "not definitely"?

A. In other words, I put it [there] to put that feeling of.

Q. You wanted Sapiro to believe that you were telling him something that you really thought?

A. In other words, just camouflage, in other words.

Q. Camouflage?

A. Yes.

Q. You mean that you were thinking one thing but saying another?

A. That is the idea.

Q. But you wanted Sapiro to believe not what you had in your own mind but what you were saying on paper, is that it?

A. Yes, so he would work harder; in fact, outstep Doyle in getting evidence, if possible.

Comment upon this incident is unnecessary, despite the fact that days later counsel for the Government, on cross-examination⁷⁴ sought to rebuild Keegan's trustworthiness.⁷⁵

VI. THE FINANCING OF KEEGAN'S ACTIVITIES

It is necessary now to turn to the source of the funds used by Keegan in this extensive investigation. In his original testimony in this connection Keegan stated that he provided the funds for all the trips that his men took into California, that no books were kept with reference to those expenses but that he paid them to his men upon their statements. In turn Keegan would get funds from the chief of the Portland police for which personally he had to make no accounting. According to Keegan, the chief asked no questions of Keegan as to the purpose of his expenditures and his requests were

⁷⁴ Actually in the nature of re-direct examination inasmuch as Keegan, though called by the alien, was a hostile witness.

⁷⁵ The following questions and answers were given:

"Q. You were questioned yesterday (the date of the questioning referred to was August 9, 1939, the date of this cross-examination is August 15, 1939) about letters addressed by you to Aaron Sapiro. Had you discussed those letters with anyone, or had they been called to your attention at any time before you were questioned by Mr. Gladstein?"

"A. No."

"Q. Did anyone at all, Captain?"

"A. (Interrupting.) Question me regarding the letters?"

"Q. Yes."

"A. No."

"Q. Were they discussed with anybody?"

"A. No sir."

always met. Keegan also testified that he had never paid or authorized the payment of transportation expenses for bringing any witness in the Bridges case to Portland. His original denials in this respect were specific with regard to Sapiro's expenses from Los Angeles to Portland.⁷⁶

Here again Sapiro had previously testified to the contrary. Keegan was consequently forced to change his testimony. He stated that after leaving the stand the first day Mumpower had called his attention to this discrepancy and had reminded him that Mumpower had paid these expenses. But Keegan still insisted that Mumpower had never informed him that Sapiro's expenses were being paid, despite the fact that the admitted routine would require Mumpower to go through Keegan in order to get reimbursement for any outlay that he might have made.

The most crucial point with reference to Keegan's testimony on expenses revolves about an ultimately admitted payment of \$250 to Browne. Keegan not only emphatically denied that he had ever received money from Rosser,⁷⁷ the secretary-treasurer of the Teamsters' Union in Portland, now in jail for arson, or Estabrook,⁷⁸ the secretary and business agent of the Warehousemen's Union in Portland, but he was equally emphatic in his denial that any of his men had received any money from this source. Because of later incidents the repeated and emphatic denials of Keegan in this connection deserve quotation:

Q. Well, is it your testimony that neither directly nor indirectly did you receive it, nor have any of your men in the Portland Police Department received any money to assist in connection with the Bridges case, Bridges' investigation?

A. Personally, I have not received one 5-cent piece, and I don't believe that any of my men have. *

Q. Did Esterbrook ever give you any money of any kind?

A. No, sir; Esterbrook never gave me any money.

Q. Did Esterbrook give Browne or any of your officers, to your knowledge, any money of any kind for any purpose?

A. No. They tried to pin the same thing on me during those trials, for your information, Mr. Gladstein.

Q. What was that?

A. The question you are leading up to there, that I accepted money.

Q. What trial was that?

A. Rosser's trial; Esterbrook's trial. He is under sentence of about 3 years, too. They tried to pin that same thing on me then, but they didn't get any place.

Q. I see. Now, do you remember sending Bill Browne to Esterbrook's office at the Labor Temple in the summer of 1937, to get some money?

A. No.

Q. Do you remember hearing that Browne had gone down there and asked for \$250?

A. Did I what?

⁷⁶ "Q. Do you remember ever giving Mr. Sapiro any money to reimburse him for any expenses he might have incurred in connection with the Bridges case, or preparation of the case?"

"A. I never gave Sapiro or anybody else any money."

"Q. You never gave him a cent?"

"A. No, sir."

"Q. In your presence did any representative of the Immigration Department, or any other person, give Mr. Sapiro any money to reimburse him for expenses he had incurred to take a trip in connection with a conference on the Bridges case?"

"A. Not to my knowledge."

"Q. Well, if it had happened you would know it?"

"A. I know that it never happened—never did anything like that in my presence."

"Q. In your presence such a question of reimbursement of Sapiro was never discussed; is that correct?"

"A. There never was."

"An admitted payment by Rosser to Keegan of \$80 is irrelevant in this connection."

"The name is spelled as both "Estabrook" and "Esterbrook" in the record."

Mr. GLADSTEIN: Read it, please.

(The question referred to was read by the Reporter as above recorded.)

A. No; I do not.

By Mr. GLADSTEIN. Q. Do you remember Esterbrook coming up to the police station and paying Browne \$250?

A. No.

Q. Did Browne tell you about it?

A. No, sir.

Q. Would you say it didn't happen?

A. I would say it didn't happen.

Keegan was then asked to identify a photostatic copy of a receipt that Browne had given Estabrook for \$250. Keegan stated it looked like Browne's signature but that he would not want to identify it.⁷⁹ His further answers in that respect are as follows:

Q. * * * Do you know anything about it?

A. I don't know anything about it.

Q. You never discussed it with Browne?

A. No.

Q. You never discussed it with Estabrook?

A. No.

Q. You never discussed it with Rosser?

A. No.

Q. Did you think they were keeping some secrets from you?

A. I don't know what that was for. They have been friends for years and years.

The impact that this receipt had on Keegan's mind at that time is not only disclosed by this testimony. After he was excused that day from the stand, he stated to counsel for the alien and to the examiner that he was disturbed and concerned by the production of this alleged receipt and would make an investigation into the circumstances surrounding it when he went back to Portland.⁸⁰

VII. ROSSER'S TESTIMONY ON FINANCING KEEGAN

To get at the truth of this incident and the possible source of Keegan's funds for the investigation of Bridges, it becomes necessary to consider the testimony of Rosser and Estabrook. Albert E. Rosser's testimony was taken by deposition because he was then in jail under sentence for arson in the Salem Penitentiary in Oregon.⁸¹ That very fact alone is of great relevance in judging Rosser's credibility and were it a question of Rosser's word as against Keegan's word, even in the light of Keegan's open unreliability, one could hardly take Rosser's word. But the issue proves not to be so simple. It thus becomes necessary to examine Rosser's testimony.

⁷⁹This receipt was not admitted in evidence as of this time but was admitted later because of further identification.

⁸⁰These facts are not only personally known to the Examiner but they appear of record in the later deposition of Keegan. The occasion for a discussion of this subject by the examiner with both counsel and Keegan was preparatory to the outlining of procedures that would be employed to take depositions from Rosser and/or Keegan and/or Browne.

⁸¹Counsel for the Government objected to the introduction of Rosser's deposition at this hearing upon the ground that a copy of that deposition had been seen by Estabrook before he testified, and before the deposition was offered in evidence. The original copy of the deposition was transmitted directly to the examiner and no allegation is made that the deposition itself has been tampered with. The irregularities relating to giving it publicity reflect upon the judgment of counsel for the alien and his appropriate regard for the explicit instructions of the examiner, which were observed with scrupulous care by counsel for the Government. These irregularities, however, do not go to the admissibility of the deposition as such; they do affect the weight to be given to Estabrook's testimony. The Government's objection to the admissibility of this deposition, upon which the examiner reserved his ruling at the time, is thus overruled.

Rosser was the secretary of the teamsters' union and also of the Joint Council of Drivers with headquarters in Portland. He claimed that he had paid Keegan several thousand dollars beginning in 1937 for the investigation of Communist activities in connection with labor unions, particularly in connection with Bridges.⁸² One payment alone is of interest here. He claimed that he had reimbursed Estabrook \$1,250, \$1,000 of which Estabrook told him had been paid Keegan directly and \$250 of which Estabrook told him had been paid to Browne. He claimed that Estabrook had made these payments under the orders of Dave Beck, the international organizer of the teamsters' union, and that he, Rosser, had repaid Estabrook through the joint council. Rosser identified the original of the Browne receipt which he said Estabrook had given him when Estabrook had been repaid.

VIII. ESTABROOK'S TESTIMONY ON FINANCING KEEGAN

Estabrook testified in this proceeding. He had also been indicted for dynamiting. He was tried three times on this charge. Twice the jury disagreed. The third time he was convicted but the conviction was reversed on technical grounds on appeal. No effort had as yet been made to retry him.⁸³

Estabrook was the secretary of the warehousemen's union which is affiliated with the International Brotherhood of Teamsters. Unions affiliated with that brotherhood are represented on the Joint Council of Drivers, which is the governing teamster-authority for that region. Rosser and Estabrook were both members of this council.

Estabrook testified that his union also paid Keegan money, particularly in connection with the salary on one Stroup, as undercover operator for the Portland police. With reference to the \$1,250 before mentioned, Estabrook stated that Rosser called him on the long distance phone and told him to take \$1,000 in cash over to Keegan.⁸⁴ Before doing so, inasmuch as this cash was to be taken from the warehousemen's union funds, Estabrook in addition to Rosser's assurance of repayment got a similar assurance from other members of the Joint Council then present.⁸⁵ He thereupon drew the cash from the union funds⁸⁶ and took it over to Keegan who did not give him a receipt for it.

The next day, according to Estabrook, Browne called upon him and asked him for \$250. Estabrook refused, saying that he had no authority to pay him. He was then called up again by Rosser and told to take \$250 over to Browne. He did so. Browne, without being asked for it, gave Estabrook a receipt for the \$250.

⁸² Rosser was a leading though disreputable figure in the A. F. of L. movement in Oregon. He and his organization were opposed to the infiltration of the C. I. O. movement. Bridges was the leader of the C. I. O. movement and as such a leader of an association that Rosser regarded as antagonistic to the teamsters' union and other A. F. of L. organizations.

⁸³ Estabrook had been arrested several times, in connection with labor disturbances. On these occasions he had always been released before trial except on two occasions, excluding the dynamiting charge, he went to trial. At one of these trials the judge threw the charge out; at the other there was a verdict of not guilty. Estabrook's claim was that all these were a series of "frame-ups." One judge and one jury seem to have agreed with him.

⁸⁴ Estabrook when asked about Rosser's statement that Beck had instructed Estabrook to make this payment, said without hesitation that Rosser had lied and had done so in his opinion because of his animosity to Beck.

⁸⁵ The offices of the joint council were in the same building as those of the warehousemen's union.

⁸⁶ It is clear that the union would normally have funds in excess of \$1,000 in its safe. Dues as collected were banked only weekly.

A few days thereafter Rosser returned and in the name of the joint council gave Estabrook a check to the order of the warehousemen's union for \$1,250. Estabrook did not claim that he thought himself or Rosser guilty of wrongdoing in paying this money over to Keegan, stating that he believed it was for the purpose of investigating communistic activities—a purpose of which he then approved and even now approves.⁵⁷

One might readily be tempted immediately to dismiss the testimony of both Rosser and Estabrook as unreliable, for they both undoubtedly were vindictive toward the Portland police. But the fact remains that their story as to the \$1,250 transaction is partially borne out by the books of the union and the records of the bank, and, more important, that Keegan ultimately admitted the genuineness of the receipt that Browne gave Estabrook for \$250. This receipt reads as follows: "Received of J. Estabrook \$250 to be returned Sept. 18, 1937, Wm. D. Browne." There is also in evidence a check drawn by the Joint Council of Drivers, countersigned by P. Joe Brady and A. E. Rosser, dated September 29, 1937, on a Portland bank to the order of the warehousemen's local for \$1,250.

The books of the warehousemen's union are less illuminating because some of them are missing. The offices of this union were raided by the State police in February of 1938 and all the books and records of the union were removed. Only some of these books and records were returned to the union after they had been retained by the police for a year and a half. Among the books that Estabrook testified were missing was the journal itemizing daily expenditures. The day book in which were posted the receipts of the union was returned. An examination of this book discloses an entry showing the receipt by the union of \$1,250 following the words "Reimbursed by joint council." The union's bankbook showing a record of bank deposits shows a deposit made on September 30, 1937, of \$2,029.50 which was claimed to include the \$1,250—a claim that is substantiated by the record of deposit and payment on the check itself.

IX. KEEGAN'S EXPLANATION OF THE BROWNE RECEIPT

Keegan was examined by deposition immediately after Rosser's deposition was taken. This time Keegan admitted the authenticity of the Browne receipt but denied ever having received money from Rosser or Estabrook.⁵⁸ His story about the Browne receipt can best be given in his own words:

This [the receipt] was shown to me on the witness stand in California, at Angel Island while I was on the witness stand. I knew nothing about that. I told Mr. Gladstein I would investigate it when I came up here which I did. I asked Brown about it, Sgt. Brown, and he said that he did get \$250 off Estabrook; that Estabrook wanted to give this money to use in the Bridges investi-

⁵⁷ A. And at that time I was under the impression that that is what it was, and as far as contributing money, I personally would contribute money right today towards any fund to investigate anybody that was a Communist, providing they are a Communist.

⁵⁸ And why Captain Keegan should take the witness stand and swear under oath that he didn't receive any money from me is beyond my comprehension. If I was Captain Keegan, I would be very proud of the fact that there was money paid in by citizens that were willing to do these things.

⁵⁹ Estabrook made the claim that Keegan was associated with the State police in this raid and testified that he saw Keegan poring over the books when he later tried to get them returned. Keegan denied this.

⁶⁰ Except the \$80 above referred to.

gation, and that he told Esterbrook at the time that he didn't think I would take that \$250; if I wouldn't he would give it back to him. I was in California at the time and Brown got me on the telephone and I told him to take no part in it and he gave it back to Esterbrook and he asked for the receipt and Esterbrook told him it was up in his office. He met Esterbrook on the street or down in my office. I don't know which one, and Esterbrook told him the receipt was up in his office and he said he would tear the receipt up. That is the explanation of the \$250 which I promised I would investigate.

On cross-examination Keegan added little, except the following explanation of his original lack of memory:

Q. On the signature, Captain, when I showed you the receipt and you identified Brown's signature and I explained what the \$250 was about, you told me Brown never obtained any money from Esterbrook for anything and you didn't believe he would, and this was the first time you had heard any indication of it; after you got off the stand and we were on the porch you told me you were going to investigate it.⁹⁰

A. Yes, sir.

Q. So at that time the entire \$250 transaction had completely slipped your mind?

A. Yes.

Q. It was only when Brown talked to you a couple of weeks ago that suddenly the whole thing flashed back into your memory and you recalled it?

A. Yes.

It is wholly unnecessary to this proceeding to resolve the issue of fact as to Keegan's source of funds as between Keegan on the one hand, and Rosser and Estabrook on the other. Keegan's ultimate explanation of the Browne receipt is, however, far from convincing. Brought to his attention so dramatically and so insistently in this proceeding he denied any knowledge of it. His own later explanation makes it, even apart from the alleged long-distance call to him, an incident of the type upon which memory if it does not immediately fasten is certainly easily refreshed. This explanation also places Browne in a situation of more than unusual carelessness, returning cash but leaving in Estabrook's hands a receipt for \$250 with a pledge to return it. Again Keegan's explanation tends to contradict the normal inference derivable from the words "to be returned" upon the face of the receipt, for from Keegan's testimony the transaction between Browne and Estabrook could not be construed otherwise than as a gift. For this proceeding the relevance of this incident lies in its tendency to throw light on Keegan and Keegan does that sufficiently by his own testimony.

X. COMMENTS ON THE KEEGAN TESTIMONY

Keegan's testimony deserves a brief rehearsal. One cannot discount his discrepancies as due to an inability to understand events. He is a trained police officer with years of service. Yet he swears falsely in behalf of Scott. His contradictions are both frequent and with regard to major matters, not in respect to minor uneventful details. He is required again and again to devise explanations, crude

⁹⁰ Counsel for the alien claimed that the last portion of this question was not correctly transcribed by the reporter who took the deposition and that following the semicolon the question should read: "After you got off the stand and we were on the porch you told me you were going to investigate it because you thought Browne might have been knocking down on the side. Do you remember saying that to me?" Counsel for the government admit that the stenographer's notes read this way, but that from the word "because" through the word "remember" the notes had been scratched out, "indicating, although she has no recollection of this, that she was told to strike out that part of the question."

in character, when documentary evidence and other testimony directly contradict his original recitals. He misled the examiner again and again only to be forced by documentary evidence and the testimony of others ultimately to reveal a wholly different story of his activities and the activities of his men than he first sought to portray. The picture that Keegan draws of himself is not one of a chief of detectives confident of the integrity of his office and the trustworthiness of his men and their tactics.

A.A. TESTIMONY RELATING TO STANLEY M. DOYLE

I. RELEVANCY OF DOYLE TESTIMONY

Pertinent to a consideration of the validity of the Leech testimony is the evidence that relates Stanley M. Doyle to this proceeding. Counsel for the alien sought to establish that Leech had testified falsely not only by evidence relating to improper inducements made to Leech by Browne, but they also contended that Leech was offered improper inducements by Doyle, who, it will be remembered, finally got Leech to testify.

There is no direct testimony that Doyle made such inducements to Leech. That fact is sought to be established by evidence that Doyle made improper inducements of a similar nature and under similar circumstances, to others in the effort to get them to testify against Bridges and by the fact that the opportunity for such inducements was present in the case of Leech. Apart from any consideration of Doyle's connection with the Government in this case, common law rules of evidence could be invoked to permit the introduction of testimony of similar inducements in the effort to convince that Doyle used the same methods on Leech. Cf. *People v. Ruef*, 14 Cal. App. 576, 114 Pac. 54; *In re Mason*, 147 Minn. 383, 181 N. W. 570; *People v. Duffy*, 212 N. Y. 57, 105 N. E. 839. See 1 Wigmore, Evidence, § 304. But Doyle was also connected with the preparation of this case by the Government. Not only did he procure Leech for the Government. He also procured Mills and was associated with Bonham in getting the Cox statement. Despite the fact that neither of the statements procured from these two men were employed in this proceeding, Leech's affidavit was. This is sufficient on principles of common law already discussed to make admissible evidence of improper inducements made by Doyle to other witnesses. *Moore v. Atlantic Coast Line R. Co.*, 137 S. C. 319, 135 S. E. 473; *Norack v. Metropolitan Street Ry. Co.*, 166 N. Y. 433, 60 N. E. 32. See 1 Wigmore, Evidence, § 278. The evidence relating to Doyle's improper approaches to witnesses thus, on both these grounds, deserves examination.

II. SUMMARY OF EVIDENCE ALREADY DISCUSSED

Some evidence along this line has already been recited. There is Mills' letter to Knowles threatening to expose Doyle unless Doyle lived up to an unspecified agreement. There is Knowles' tortuous admission that Doyle was the type of man of whom Knowles could harbor the suspicion that he might possibly suborn perjury. There is Knowles' admission that he believed that Doyle had promised Cox a job if he would testify. There is Leech's own admission that Doyle had agreed to get Leech a job in Portland, gave him \$110 for moving

expenses, with the additional promise of a second-hand Ford. There is Keegan's expressed distrust of Doyle and his methods.

These things, save for the Mills' threat, whose exact nature is not discernible, are not wholly negligent. They go beyond what might be regarded as the normal methods employed to induce unwilling witnesses to testify to the truth. Further evidence was also proffered.

III. THE INHERENT WEAKNESS OF THE KING-RAMSDAY TESTIMONY

Earl King and Ernest Ramsay were convicted early in January of 1937 of murder in the second degree. They are both in the San Quentin prison in California. Under the California procedure their sentences have not as yet been set, an appeal from their conviction having been adversely determined only in 1939. Both men were trade-union officials at the time of their arrest. Both have been regarded as Communists; both deny those allegations. Both theretofore and since have been friends of Bridges.

Testimony from criminals is, of course, highly suspect, especially so from criminals such as these, convicted of a grave crime, complaining of that conviction as having been obtained through perjured evidence and thus naturally vindictive toward law-enforcement officials. Their testimony might therefore be completely disregarded. But before doing so it is wise to examine it.

IV. MRS. RAMSDAY'S TESTIMONY

Mrs. Ramsay, the wife of Ernest Ramsay, testified that on a Friday night "around in August" of 1937, J. E. Ferguson telephoned her in Oakland and arranged to meet her the next day in San Francisco. They met the next Saturday morning and Ferguson took her to Doyle's apartment where she met Doyle and Mrs. Doyle. Doyle asked her whether she or Ramsay knew that Bridges was a Communist. She informed him that neither of them knew him to be a Communist. Doyle then suggested that if she would sign a statement that Bridges was a Communist he would get her husband out of San Quentin. Mrs. Ramsay refused. Thereafter Ferguson took her to her mother's home and tried to prevail upon the mother to get Mrs. Ramsay to sign such a statement. Mrs. Ramsay still refused.

Two or three days later, according to Mrs. Ramsay, at Ferguson's bidding she and Ferguson and Mr. and Mrs. Doyle went to San Quentin.²¹ They went to the captain of the guard's room²² where Ramsay was brought in.²³ Doyle asked Ramsay whether he knew Bridges was a Communist. Despite Ramsay's denial of such knowledge, Doyle offered to procure Ramsay's freedom if he would sign a statement to that effect. Doyle stepped away allowing Ramsay and his wife to talk the matter over, but Mrs. Ramsay did not urge him to sign the statement and Ramsay still refused. Doyle and the others thereupon left. Mrs. Ramsay never saw Doyle again. On her next visit to see her husband this matter was discussed between them.

²¹ San Quentin was then about an hour's drive from San Francisco.

²² This is not the normal reception room for visitors but is a larger room in which attorneys are permitted to talk to their convict clients. A guard is stationed at the far end of the room from where the attorney and the convict confer.

²³ Mrs. Ramsay stated that Doyle did not sign the customary reception slip required in order to interview a prisoner. She was very positive of this fact. It should be remembered that Mrs. Ramsay, because of her former visits, was familiar with prison routine.

V. RAMSAY'S TESTIMONY

Ramsay's account of this incident is substantially the same as that of Mrs. Ramsay. He stated that before Doyle made the suggestion that he sign a statement against Bridges he had told Doyle that he did not believe Bridges to be a Communist. Ramsay also testified that he later told King of this incident and that he also told King that Doyle was going to see him about the same matter. About a month or so later Ramsay stated that he was called into the general reception room to see Ferguson, and Ferguson urged him to sign the statement but Ramsay still refused. Ramsay also said that Ferguson stated that Doyle was at that moment in the captain of the guard's room seeing King.

VI. EARL KING'S TESTIMONY

King's statement is again substantially the same. King stated that Doyle offered him his freedom if he would testify against Bridges, and King also refused. Both King and Ramsay said that Doyle threatened to pin other crimes on them if they continued in their refusal. King and Ramsay agreed not to tell others of these matters except their attorneys. King, some time thereafter, informed his attorney of Doyle's visit, King's attorney being one of the attorneys for the alien in this proceeding.

VII. THE PRISON RECORDS

The prison records of visitors were subpoenaed. Three visitors' slips were produced. These visitors' slips were obviously not too carefully kept.⁹⁴ One dated July 31, 1937, shows that Doyle, Ferguson, and Mrs. Ramsay called on Ramsay on that day.⁹⁵ Another dated September 20, 1937, discloses that Doyle called on King on that day. A third dated also on September 30, 1937, is a reception slip for Ramsay on which are both Doyle's and Ferguson's names. The time of the second slip reads: "In, 11:00; out, 11:25";⁹⁶ of the third: "In, 10:50; out, 11:30."⁹⁷ The time of the second and third thus overlap, or, in other words, they seem to corroborate Ramsay's statement that Doyle on September 30, 1937, was seeing King while Ferguson was seeing Ramsay.⁹⁸

This is, of course, of slight, even negligible significance. The interesting fact that is established wholly independently of the testimony of Mrs. Ramsay, Ramsay, and King, is that Doyle when he visited Ramsay took with him both Mrs. Ramsay and Ferguson. Some speculation may justly be aroused by this circumstance—a

⁹⁴ There was no record of Doyle signing the visitors' book at the outside gate, a normal routine requirement.

⁹⁵ The fact that Mrs. Doyle's name did not appear on this slip would be explained by the fact that she did not talk to Ramsay but stood only at the far end of the room.

⁹⁶ These reception slips have a time stamp on back. The time stamp tells when the reception slip was handed in. The "In" and "Out" recording is to indicate the time of the interview with the prisoner.

⁹⁷ This slip has the time 10:50 written over the time 10:20.

⁹⁸ These records of visits were not available to counsel for the alien until they were produced in response to a subpoena. This occurred subsequent to Ramsay's testimony. Prior to Mrs. Ramsay's testimony and Ramsay's testimony there was available to counsel for the alien evidence indicating that the prison records would show that one "D. M. Doyle" had been accorded a reception with King on September 30, 1937; the time of the visit, however, was not then available.

matter difficult to reconcile with the theory that Doyle's visit to Ramsay should be regarded merely as that of an investigator searching for evidence on Bridges.

VIII. GARFIELD KING'S TESTIMONY

In this same connection a further incident is worth relating. Garfield King, the brother of Earl King, is a practicing attorney in Vancouver, British Columbia. On February 10, 1938, King was requested to call upon Shearer, the local representative of the United States Immigration Department in Vancouver. Shearer told King that the Government wished to secure further evidence which would substantiate the claim that Bridges was a member of the Communist Party. He then read a letter that he had received from Bonham, who was Shearer's superior officer. In this letter Bonham intimated that there was some doubt as to Earl King's guilt, stated that he understood that Earl King, because of a situation that had arisen in connection with his wife, might no longer be on good terms with the Communist Party, and suggested that if Garfield King would advise Earl King to furnish evidence on Bridges, Bonham would use his influence to secure a pardon for Earl King. Garfield King stated that Shearer at no time suggested that Garfield King should get his brother to testify falsely in this matter, but Garfield King stated that he believed the proposal not to be an honorable one and that he was led by inference from other happenings that he detailed to the conclusion that Shearer considered it in the same light. Garfield King rejected this overture.

Garfield King took notes of this conversation. When he returned to his office, on February 26, 1938, he formulated the substance of the conversation in written form and embodied it in an affidavit sworn before a Canadian notary.

Garfield King's testimony was uncontradicted by the Government. It was given in the presence of Bonham, and thus the Government thereafter had ample opportunity to rebut it. No such effort was made, the Government contenting itself with the argument that, inasmuch as Garfield King admitted that it was not suggested to him explicitly that he should urge Earl King to testify falsely, the action of Bonham could not be truly criticized. Obviously this inferentially admits the truth of Garfield King's testimony.

The extraordinary nature, to say the least, of this conduct is patent. There is justification for Government officials to act in behalf of a guilty individual to mitigate his sentence if that individual will partly expiate his crime by helping the Government to bring other guilty parties to justice. But expiation for guilt was not in issue here. No one would question the impropriety of a Government official threatening to throw an innocent man into jail on a groundless charge unless he produced certain testimony. There is little substantial distinction between such conduct and that here involved—withholding action that might release an assumedly innocent man from jail unless he produced certain testimony.

Furthermore, the very method of approaching Earl King through his brother, who could hardly be presumed to have knowledge as to the truth of the matters upon which Earl King's testimony was being

sought, is devious and unusual. The incident, besides not being very creditable to the Government, affords some basis for not completely disbelieving the assertion that Doyle, whose very integrity was put in issue, could have transcended the bounds of propriety which seem not too clearly to have been envisaged by one Government official.

IX. THE BAKESY TESTIMONY

One further incident, revolving about Charles G. Bakesy, requires notice. Captain Bakesy in his younger days was a seafaring adventurer. Subsequently he became engaged in police and investigatory work. He worked in that capacity at one time for the Burns Detective Agency, at another for Government officials including the special intelligence bureau of Gen. Leonard Wood. His conduct has not always received approbation from his superiors. In 1913 he was dismissed from the Portland police force for incompetency and inefficiency.

Bakesy testified that he was employed from April 1935 to August 1935 by T. G. Plant, a leading official in the Waterfront Employers Association to investigate waterfront labor activities and particularly Bridges. Following the termination of that employment Bakesy stated that he was employed by Hugh Gallagher, the president of the Matson Line. On November 23, 1935, he stated that Doyle and one Byington Ford came to see him at Carmel and insisted that he sign a statement that he had seen Bridges at a Communist meeting in the home of Lincoln Steffens. He refused to do this inasmuch as he had just come from there and insisted that Bridges had not been there. Bakesy stated that Doyle suggested that Bakesy would lose his job if he did not sign such a statement. Bakesy, however, refused to do so. The same threat and the same refusal were repeated later that evening after Bakesy had been to the Steffens' home and satisfied himself that Bridges had not been there.

Mrs. Bakesy corroborated part of Captain Bakesy's statement. Mrs. Bakesy occupies the position of Captain Bakesy's private secretary. She testified that, according to the custom that seemed to have prevailed in that curious household, she was stationed in a small room next to the room in which the conversation with Doyle was held, and that there she made notes of the conversation.

Bakesy testified to other matters also, but this testimony need not be reviewed. Bakesy failed to carry conviction to the examiner. It is impossible to separate truth from fiction in his testimony. It was bizarre and at times fantastic. It seems best not to permit the testimony of either Captain or Mrs. Bakesy to play a real part in reaching such ultimate conclusions as must be reached in connection with the matters that are at issue in this proceeding.

X. THE MILNER TESTIMONY ON DOYLE

Testimony against Doyle was also extracted from Government witness Milner. He, it will be remembered, testified that Doyle requested him to change the testimony that he had already given on the stand in the DeJonge trial. Doyle's promises then were the offer of a job and the promise of rehabilitation. But Milner's testimony has already been analyzed and the conclusion reached that he is untrustworthy.

With reference to this particular incident, Milner testified under oath in Portland that Doyle had not sought to get him to change his testimony and testified in this proceeding directly to the contrary. There is a possibility, in the light of the other testimony of record, that Milner may have testified truly in this proceeding with regard to Doyle, but that possibility stems only from the conformity of Milner's testimony to the general design of Doyle's activity rather than from any confidence that may be placed in the general veracity of Milner.

XI. DOYLE'S OWN CONDUCT

These are the allegations regarding Doyle that were on record when he finally appeared in response to a court order to testify in this proceeding. And it is in the light of this record of persistent evasion by Doyle of his duty to testify that this mass of testimony must be weighed. For the record establishes that Doyle knew of these charges that had been made against him. His actions in the face of that knowledge—actions which are rehearsed at length in an appendix⁹⁹ and thus need not be reviewed here—are mutely eloquent. They drive one irresistibly to the conclusion that Doyle's conduct in the collection of evidence against Bridges was not too unlike that which this array of evidence portrays.

BB. CONCLUSIONS AS TO THE CREDIBILITY OF LEECH

Leech's credibility must be weighed not only in the light of his own evasions and misstatements and of the directly contradictory testimony of other witnesses, but also in the light of the Knowles-Keegan background to which Browne and Doyle are inextricably tied. That background in itself gives little reason to impose confidence in witnesses whose eventual willingness to testify is brought about by men accustomed to employ methods of a disreputable nature, as evidenced by their action in other similar cases. It is, of course, true that despite these factors a witness may nevertheless be telling the truth, for in cases such as these willing witnesses are necessarily a rarity. But in such an event candor and a modicum of coherence can rightly be expected to attend the witness' own testimony. These were absent with regard to Leech.

Leech's falsification of his relief record is to a degree understandable. The poverty and the ill luck that dogged Leech were tragic in the extreme. That under these conditions an otherwise honest man might be led to cheat a little is neither extraordinary nor too blameworthy. It is hard to condemn slight lapses in this long struggle against poverty and illness. One can understand, too, how the first reaction in such a situation led to evasion and falsification in the hope of concealing the extent of that wrongdoing. Were this all, Leech might still be believed. But he lied in other important respects which have relevance only to his testimony in this proceeding. His variant stories on his arrival in California and his termination of his connections with the Communist Party, his falsification in regard to the signing and correction of the so-called affidavit, his vagueness in regard to the Communist-meetings to which he testified as contrasted with an other-

* See appendix III.

wise capacious memory for detail, are all examples of the innumerable matters that tend to create each its separate doubt. These doubts cumulated possess an overwhelming force.

There is further the directly contradictory testimony of Bundy, Austrian, and Goldman. Few witnesses in this proceeding carried as much conviction as Miss Goldman. Her part was always a minor one. Her testimony rang true to the conception that the incident to which she testified was routine and fairly trivial in character. There was no pretense to a memory of minor details that could not have survived the erasing hand of 2 years of a busy and active life. Austrian's testimony again stood effectively the tests of severe cross-examination. Even considering his experience and his prior contacts with this proceeding some breaks of a truly significant character should have occurred in that testimony were it false. Bundy, despite his inconsistencies of detail, is curiously consistent on the major points. Impossibly superb-coaching would have been required for example to have his line of vision of the Leech living room correspond with the structural plan of the house as it actually was instead of that plan as he himself conceived it to be.

The record does not disclose why Leech was ultimately induced to testify in the manner that he did; nor is it necessary to find or to try and infer why he was induced so to do. The Keegan testimony, however, gives every basis for indulging in suspicious inferences with reference to his Department. Boyle fares equally ill. There is nothing, however, in this record that gives a basis for concluding otherwise than that those Government officials who produced Leech upon the witness stand were in ignorance of the damaging testimony that that production set in motion.

3. AARON SAPIRO

A. SAPIRO'S BACKGROUND

Aaron Sapiro, a Government witness, is now a practicing attorney in Los Angeles. For many years Sapiro has led an active and energetic life, much of his energy having been devoted to legal work in connection with trade associations and labor unions. In New York and Chicago and elsewhere he organized associations of dealers, merchants, laundry owners, dyers and cleaners, tailors, milk distributors, and motion-picture operators. These activities brought Sapiro into collisions with the law. Sometime in 1933 Sapiro was indicted in Chicago with a number of other defendants, including trade associations and unions, for conspiring to restrain trade by unlawful acts, such as bombing, acid throwing, and the like. He and all the other defendants were acquitted of the charge. In 1934 he was indicted in New York, together with one Roth, for attempting to influence jurors in an action then pending in a United States court. The other individual was convicted, but Sapiro was acquitted. Judge Knox, of the United States District Court for the Southern District of New York, despite this acquittal, insisted that disciplinary action against Sapiro should be taken. Judge Knox, after a hearing, ordered Sapiro's disbarment. This decision was reversed on appeal on technical grounds and the cause remanded to the district judge for further proceedings. See *In re Doe* (95 F. (2d) 386). Judge Knox there-

upon again found Sapiro guilty of conduct justifying his disbarment. An order striking Sapiro's name from the court's roll of attorneys and barring him from further practice in that court was entered. This order was affirmed on appeal. See *In the Matter of Sapiro* (101 F. (2d) 1018).

Judge Knox's findings in that case are a severe indictment and reflection upon Sapiro's integrity. Without mincing words, Judge Knox states:

In other words, he (Sapiro) was content that justice should be improperly influenced, if not polluted, at its source. This, in my judgment, when one considers Sapiro's experience and intelligence, was a serious offense. But there is an additional factor to be taken into account. It is this: In his approaches to Mrs. Chauvin, Roth made statements that were intended, I have no doubt, to cause her to become aware that it would be to the advantage of herself and husband if he were to vote for Harwood's acquittal. To put the matter differently, bribery was suggested, if not actually offered. While the proof before me will not support a finding that Sapiro had previously authorized Roth to suggest that bribes were available to Jurors Chauvin and Magrino, I do believe and find that Roth reported to Sapiro the entire substance of what he had said to Magrino and to Mrs. Chauvin. Respondent was thus made aware of the attempt to corrupt one of the jurors who was sitting in judgment upon the acts of his client. And yet he did nothing to avoid a possible miscarriage of justice. To my mind this constituted nothing less than corrupt misconduct, and in the absence of any extenuating circumstances merits disbarment. For an attorney knowingly to permit himself and client possibly to profit as a result of the attempted bribery of a juror is about as culpable as was the offer of the bribe. Sapiro's position was much like that of a man who knowingly buys stolen goods from a thief.

Sometime around 1935 Sapiro transferred his major activities to the Pacific coast. He became the chief counsel to the Sailor's Union of the Pacific, of which Lundeberg was the head. He also represented in specific claims the Marine Firemen's Union, the Marine Cooks and Stewards, the Alaska Fishermen's Union, the strike committee of the International Longshoremen's Union of the San Pedro district, and possibly others. To understand Sapiro and his activities in connection with these unions it is important to realize that Sapiro, just as in the case of his trade associations, did not limit himself to the role of the normal legal adviser. He became extremely active in the formulation of maritime union policy not only in these unions but also on the entire Pacific coast water front. He addressed innumerable union meetings; his counsel was often controlling in the development of union policies, and for a time he might be said to have dominated by his energy and his innate intelligence the unions that he represented. Sapiro unquestionably belongs to the type of lawyer found frequently in financial, corporate, and even labor practice, who not merely counsels but organizes and directs, and in the development of his plans makes those broad, opportunistic judgments that normally are the concern of the banker, the businessman, or the union leader.

B. SAPIRO'S FIRST MEETING WITH BRIDGES

The year 1936 on the Pacific coast water front was an exciting one. Difficulties between the shipowners and labor were becoming acute. Rivalry among various union leaders was developing and friction was increasing between the international labor unions and the local groups on the west coast. Among the dominant personalities in the maritime labor field were Lundeberg of the sailors and Bridges of the longshoremen.

In February of 1936 Sapiro came to San Francisco from Los Angeles to represent the sailors' union of the Pacific in litigation arising out of the expulsion of that union from the International Seamen's Union. Sapiro was then staying at the St. Francis Hotel. According to Sapiro, Williams, the assistant editor of the Western Worker, called upon him and wanted him to meet one of the important, militant labor leaders in San Francisco, whom he later named as Harry Bridges. Williams stated that Bridges could not come to see Sapiro openly in the St. Francis Hotel but that a private meeting would have to be arranged. This was agreeable to Sapiro, so that night at 11 p. m. Williams came for Sapiro and took him to an apartment house. Bridges dropped in at the same place a few moments later. Discussion, irrelevant to this proceeding, ensued for a half an hour and Bridges then drove Sapiro back to his hotel.

C. SAPIRO'S STATEMENT AS TO BRIDGES' COMMUNIST AFFILIATIONS

Sapiro then testified that at a meeting between him and Bridges late in April or early in May, Bridges said in substance to him: "You are just like all those easterners. You are just like Earl Browder. When he came out here in 1934 he could not understand the rank-and-file movement, and when I met him out at Fleishacker Pool, out on the beach,¹ I had to show him what a fool he was. He didn't know what the rank-and-file movement² was, and I showed him that I would take the rank-and-file workers even from Mike Casey in the teamsters' union."

The tenor of this conversation also turned to the growing rift between Bridges and Lundeberg, the head of the sailors' union, and Sapiro then told Bridges that he was still following Lundeberg's lead.

D. SAPIRO'S STATEMENT ON BRIDGES' CONTROL OF THE COMMUNIST PARTY

Nothing particularly relevant to the issues in this proceeding occurred in three meetings held between Sapiro and Bridges in Los Angeles in May and June of 1936; but late in June of 1936 Sapiro testified that Bridges came to see him at the St. Francis Hotel in San Francisco. Discussion turned upon whether Sapiro and Lundeberg were going to permit the marine firemen and the cooks³ to be added in an action that the sailors' union then had initiated before the National Labor Relations Board. Sapiro objected to this addition and Bridges insisted upon it, claiming that Sapiro was blind to the true situation. Differences also arose between Bridges and Sapiro as to the arrangement that Sapiro was seeking to perfect in order to bring the Sailors' Union of the Pacific back into the International Seamen's

¹ This reference is to a Communist meeting that was allegedly held on the beach near the Fleishacker Pool which was addressed by Browder and was attended by the leading Communists in the labor movement in San Francisco. The meeting was supposedly a secret one. Fleishacker Pool borders the beach on the western side of the city. The pool, said to be the largest swimming pool in the country, is on the western end of Golden Gate Park. North of the pool is an amusement park and south of the pool is a United States military reservation in which Fort Funston is situated.

² The rank and file movement generally refers to a movement that began in the waterfront unions in 1933 and 1934 that sought to get away from the older leadership by restoring more power to the rank and file worker. It has made for more active participation by the average union member in the formulation of union policy.

³ The full names of these two unions were the Marine Firemen's Oilers', Watertenders and Wipers' Association and the Marine Cooks' and Stewards' Association.

Union. When Sapiro stated that he was following Lundeberg's lead, Bridges replied that he was running maritime affairs on the west coast, for he was running the Communist Party and the Communist Party ran the maritime unions. When Sapiro objected that the Communist Party did not run the sailors' union; Bridges answered that that was not the case and proceeded to detail for Sapiro's benefit the extent of the influence of the Communist Party. He then went on to relate that "in the sailors' union they had Saunders, Quitenton, and Mills; in the International Longshoremen's Association they had Schmidt and Shoemaker in San Francisco and Donnelly and Bowen in San Pedro; in the cook's they had Cayton; in the American Radio Telegraphers Association they had Pyle, Jordan, Rathborne, and Brown; and that they had a complete organization in every port on the coast and that they had an organization whereby they could get out publicity and get out this Marine Worker, and get out anything they wanted, and in 24 hours they could have leaflets produced on any subject at any point on the coast; that the I. L. A. (the International Longshoremen's Association) was the big strong one and that was under his control; and that the I. L. A. men, the longshoremen, never went to sea, but that the I. L. A. kept enough of them on shore, put them in, if necessary, on permit cards, so they could keep control of those meetings in these other organizations; and they could destroy any man they wanted within 24 hours by the publicity, and that in some places, such as Seattle, they had a publicity organ, and publicity organization, under a man named Stack." Sapiro also claimed that Bridges stated that he gave orders to William Schneiderman, the chief official of the Communist Party in California. Bridges, according to Sapiro, in "very plain words" told him that he must line up with Bridges and give up Lundeberg or else that Bridges would use his strength to get Sapiro thrown out.

E. HEARSAY TESTIMONY GIVEN BY SAPIRO

This is the substance of the direct testimony given by Sapiro relating to Bridges' alleged membership in the Communist Party. Sapiro, however, added considerable hearsay testimony on the same issue, and this, despite the general weakness that rightly attaches to hearsay testimony, deserves review. In August of 1936 Earl Browder came to the west coast in connection with his campaign for President of the United States on the Communist ticket. Sapiro, though he disagrees politically with Browder, had been a friend of Browder for some time. He still holds a high regard for Browder's sincerity. Sapiro stated that he met Browder in a hotel cafe later one night after Browder had finished a political speech, that he complained to Browder of Bridges' tactics in the maritime situation, and that Browder, after saying that Bridges was one of the hardest men in the Communist Party to handle, told Sapiro that he wanted to go into the subject later in detail with him. The next morning Browder called on Sapiro, and after listening to Sapiro's story, Browder told him that he would give orders to Bridges to work together with Sapiro. He further told Sapiro that Bridges was very powerful in the Communist Party because of his control of the longshoremen.

Soon after this discussion Sapiro saw Bridges again in San Francisco. The discussion between the two centered upon what attitude

Bridges was going to take before the longshoremen with reference to a strike vote. Sapiro thought it would be best not to precipitate a strike then and suggested that he (Sapiro) could persuade Lundberg to keep the sailors from taking a strike vote if Bridges would agree to pursue the same policy with the longshoremen. Sapiro said Bridges agreed to this policy and thereupon, with Lundberg's consent, Sapiro persuaded the sailors not to take a strike vote. He learned shortly thereafter that Bridges was advocating that the longshoremen should take a strike vote, and when he remonstrated with Bridges he could get nothing out of Bridges except that he had changed his mind.

After this strike was over,⁴ in March of 1937 Roy Hudson, a former official of the Marine Workers Industrial Union and allegedly the head of the maritime activities of the Communist Party, called on Sapiro in Los Angeles and showed him an article that he had written in *The Communist*. The article criticized the Sailors' Union of the Pacific for breaking up the maritime unity of the coast, and when Sapiro said that the true fault lay with Bridges and his double-crossing, Hudson replied that the facts were otherwise. Hudson then told Sapiro that after Bridges had seen Sapiro and had agreed not to ask for a strike vote from the Longshoremen, Bridges telephoned to Hudson. Hudson then told him that the party line had changed and that the party now wanted the strike, and Bridges for that reason was compelled to take the action that he did. Hudson also told Sapiro that Browder had spoken to him of what Browder had told Sapiro what he would do in regard to Bridges, and further talk was had between them regarding Bridges.

In May of 1937 Sapiro stated that Schneiderman, the chief Communist official on the west coast, called on him. Again talk was had with reference to Bridges, and Schneiderman told Sapiro that Bridges was such an egotist that he was a hard person for the party to handle, but that nevertheless Schneiderman would do his best to bring Bridges into line.

Also about that time Sapiro testified that at a party in Los Angeles he met Miss Wilson, Mr. Dodd, and Mr. Jerome. All of these people were Communists, Jerome being one of the editors of *The Communist*. Jerome said that Browder had told him to see Sapiro, that Sapiro ought to work with them, and that the Communists were all going C. I. O., and that Bridges was going to deliver the maritime unions for them.

Late in the summer of 1937 Sapiro stated that he called on Browder in New York and there complained to Browder of Bridges' activities. Browder again agreed to talk to Bridges or have him talked to. Sapiro stated that Browder later telephoned saying that he had talked to Bridges.

Sapiro also stated that early in 1937, while he was at Washington, appearing before the Merchant Marine Committee of the Senate, J. E. Ferguson, who was then a leading official in the Marine Firemen, told him that he had sat in with Bridges in several Communist top-fraction meetings of the Maritime Federation.

Also Sapiro stated that in 1938 he became counsel for Arthur Scott, who had been an organizer of the Communist Party in San Francisco County. Scott was then in jail, having been arrested for

⁴ The strike began on October 28, 1936, and continued until February 4, 1937.

burglary. Scott told Sapiro that Bridges was a member of the State Central Committee of the Communist Party and a member of the State Executive Committee of the Central Committee of the Communist Party, as well as having been a member of the top fraction of the Maritime Federation since 1936. Scott, it will be remembered, was an undercover operator, but Sapiro, claiming the lawyer-client privilege, refused to divulge who Scott's superiors were.

This hearsay testimony of Sapiro's must be considered differently than the testimony regarding alleged admissions by Bridges. The latter type of testimony would obviously be admissible under common-law rules of evidence, whereas the hearsay testimony would be entirely excluded. Although in administrative proceedings these rules of inclusion and exclusion are necessarily much more flexible, hearsay testimony still remains hearsay testimony and as such subject to the inherent weaknesses that such testimony possesses. Moreover, in these instances nothing was shown which prevented the Government from calling Browder, Schneiderman, Ferguson, Hudson, or Scott to the stand and thereby subjecting them to cross-examination. The Government contends that inferences should be drawn from the failure of counsel for the alien to subpoena these individuals. This, however, is clearly wrong, for even though it may be proper to relax the common-law rules of evidence to permit the introduction of hearsay testimony, to insist that inferences are to be drawn from the failure of the other side to call to the stand those whose sayings are being retailed, would be to impose undue burdens of rebuttal upon the defense as a result of admitting normally inadmissible testimony.³ Instead, the reverse is true. Such inferences as can be drawn from the fact that none of these persons were called to the stand, tend to weaken rather than strengthen the hearsay testimony proffered by the Government.

F. ENMITY BETWEEN SAPIRO AND BRIDGES

Any evaluation of Sapiro's testimony must take into account the growing enmity between Sapiro and Bridges, for that testimony is contested at almost every point by Bridges. The recital above made gives some indication of the trend that their relationships were taking soon after the two of them met. That enmity, which the record discloses in great detail and which will be dwelt upon further, blazed furiously between the two of them at this proceeding. Their mutual hate stood between so intense as almost to be visible.

In addition to the earlier testimony of Sapiro which tends to charge Bridges with precipitating the maritime strike of 1936, Sapiro also accused him of prolonging the maritime strike of 1936 for some 6 or 8 weeks merely in order to prevent Lundeberg and the Sailors' Union from getting any credit for its settlement.

In December of 1936 Bridges accidentally ran over and killed a small boy. Sapiro acted as his lawyer and claimed the credit for having charges arising out of this accident dismissed. Bridges asserted both that Sapiro's aid was useless in this matter and that he

³ This is particularly true in cases of this nature for under the rules of the Immigration Service, witnesses subpoenaed at the request of the alien may be required to be paid compensation for their loss of time in addition to witness fees, travel, and subsistence. These latter costs are the only costs that the Government is required to bear. See Rule 24, sub. C, par. 1.

had not authorized Sapiro to act for him,* and refused to pay him anything. Sapiro then brought suit against Bridges for a fee of about \$1,000. Bridges has been vehement in his condemnation of this action.

On July 16, 1937, Bridges wrote a letter to one Hentschell warning him to be on his guard against Sapiro, charging Sapiro with pursuing disruptive tactics among the unions, charging him with fashioning and pressing policies favorable to the shipowners and, in short, with being interested primarily in getting fees for himself rather than faithfully serving the interests of his clients. This letter reached Sapiro's hands and Sapiro on September 1, 1937, demanded a retraction which Bridges point-blank refused. Subsequently Sapiro filed a libel suit against Bridges which is still pending.

On September 7, 1937, Sapiro wrote a long open letter to John L. Lewis. This letter is extremely bitter in its tone. It attacks Lewis not only for splitting the ranks of labor but particularly for permitting Communists to get control of the C. I. O. unions. The letter also charges that Bridges is a Communist, charges that a number of other named C. I. O. leaders are Communists, threatens to prove these facts by legal action, calls upon Lewis to throw the Communists out, and clearly implies that Lewis is guilty of running the C. I. O. for the benefit of the Communist Party.

Sapiro by that time or soon thereafter had lost the confidence of his labor clients as well as their business. He then gathered a new crop of clients among labor men who had been ousted as a consequence of the A. F. of L.-C. I. O. split. He filed several suits in behalf of the International Longshoremen's Association against the new C. I. O. union, the International Longshoremen and Warehousemen's Union, and against Bridges, trying to claim for the ousted A. F. of L. members the rights and privileges of which the new union was in possession. In these cases he was acting in behalf of Mr. Ryan, the president of the International Longshoremen's Association, a bitter enemy of Bridges. Many suits of a similar nature were also filed by Sapiro. In 1938 his original union, the Sailors' Union of the Pacific, deserted him, a desertion that led to his bringing a suit against them for fees that he alleged were due to him. The suit was compromised but Sapiro's honorary membership in the Sailors' Union of the Pacific was canceled.[†]

G. BRIDGES' ACCOUNT OF HIS RELATIONSHIP WITH SAPIRO

Bridges' account of his dealings with Sapiro differs considerably from that of Sapiro. Bridges generally confirms as to time and place the occasions upon which he encountered Sapiro. The nature of these encounters, as Bridges described them, was wholly different.

Bridges testified that around February of 1936 he learned through the newspapers that Sapiro was representing the Sailors' Union of the Pacific in connection with its difficulties with the International Sea-

* Sapiro seems to have acted upon the authorization of certain other union officials.

[†] With regard to testifying in this proceeding, Sapiro was first approached by Bonham in Los Angeles. Shortly thereafter both Keegan and Mumpower called upon him, and later he went to Portland at the expense of the Portland Police Department to confer with them and the immigration officials. Only one matter need be observed in this connection. When Keegan and Mumpower talked to Sapiro in Los Angeles, they, according to Sapiro, knew of his earlier talk to Bonham and of its content. This is of interest in indicating close cooperation between Bonham and the Portland Police Department.

men's Union. Inasmuch as Bridges represented the longshoremen and the longshoremen were on record as supporting the sailors, he had a distinct interest in the controversy, and consequently called on Sapiro at the St. Francis Hotel. The two of them there discussed the question. Bridges testified that there was no reason for him not to call on Sapiro openly and deal with him normally on a matter of business in which they had a joint interest. Bridges said he saw Sapiro several times in this connection.

The next specific occasion that Bridges recalls having seen Sapiro was late May or early June of 1937 in Los Angeles. A Maritime Federation convention was then in progress and Bridges stated that he and Herman Stuyvelaar, another delegate to the convention, called at Sapiro's request. Sapiro asked to see Bridges alone, to which Bridges agreed. Sapiro, after some preliminary conversation, showed him a telegram addressed to Sapiro which read, in substance: "Please get in touch with our friend at once. In regard to the people in Washington, it looks very dangerous. Do all that you can about it and see that everything is taken care of. Joe Brown." Sapiro then explained that the words "our friend" referred to Bridges and "the people in Washington" referred to the immigration authorities and the possibility of deportation proceedings. He then explained that he was getting orders to protect Bridges and that the "Joe Brown" was really "Earl Browder." Bridges said he was noncommittal, but that the incident aroused his suspicion and that thereafter he constantly regarded Sapiro with distrust.

Later on he again saw Sapiro when Sapiro was concerned with the problem of representing the sailors before the National Labor Relations Board. Sapiro was taking the position that the sailors ought to be a single bargaining unit, whereas Bridges was opposed to this on the ground that, in accordance with the history of collective bargaining in maritime matters and on the coast, the bargaining unit should include the marine cooks and the marine firemen.

Bridges claimed that in these and later conferences Sapiro was always a mysterious person, hinting at powerful and indirect influences that he could bring into play in dealing with union matters. Sapiro frequently told Bridges how close he was to Earl Browder and how effectively he therefore could translate Communist policy to Bridges and to the west coast. Sapiro would also assert mysteriously to Bridges that he knew that Bridges was running the Communist Party on the west coast, but that Bridges was off line for he (Sapiro) knew the true doctrine from Browder. Bridges testified that on these occasions he would deny and ridicule the assertion.

One incident in this connection is of interest. Sapiro in discussing the differences between Bridges and himself in regard to the sailors' union being the appropriate bargaining unit for the unlicensed deck personnel employed on vessels testified as follows:

A. The issue was whether or not we were going to permit the firemen and the marine cooks and stewards to be added as parties to the proceeding. I objected and Mr. Lundeberg objected, and Mr. Bridges was insisting that we had better yield because, whether we wanted to or not, they were going to be added and he had positive information to that effect.

Q. Did he say how he had this information?

A. He did not, but what he said turned out to be correct.

*There was in evidence a title page from one of Browder's books with the following in Browder's own handwriting: "To Aaron Sapiro, in admiration of a good but difficult task well done! Earl Browder."

It will be noticed how in this connection Sapiro hints that mysterious forces were at work, with which Bridges was intimate, to bring about the inclusion of the firemen and the cooks with the sailors in the appropriate bargaining unit. But such a coordination of unions had not been infrequent in this field, for before the break the sailors, the firemen, and cooks were all distinct unions under the International Seamen's Union. They have a long history of bargaining together as a unit for the unlicensed sea-going personnel, particularly on the Atlantic coast.¹⁰ On the Pacific coast that unity of action does not seem to have been as uniform,¹¹ though in 1934 the personnel embraced by all these three unions was recognized by the National Longshoremen's Board in 1934 as the appropriate bargaining unit.¹² Thus for the Sailors' Union of the Pacific in 1936 to insist upon bargaining separately for the unlicensed deck personnel was a departure from the existing practice. Moreover, events hardly bear out the contention that they failed to accomplish that objective, for in 1936, in a proceeding before the National Labor Relations Board, in which Sapiro represented the Sailors' Union of the Pacific, the Board found that the International Seamen's Union was not pressing a claim to represent the unlicensed deck personnel.¹³ Since then in Pacific coast controversies the Board has recognized that union as an appropriate bargaining agency for the unlicensed deck personnel.¹⁴

Bridges' story of the breach that occurred between him and Sapiro during the 1936 strike needs reviewing because of the Hudson incident referred to by Sapiro. Bridges stated that they were aware that the employers had planned a lock-out for September 30, 1936. Sapiro advised that the lock-out should be allowed to take place, thereby placing the onus of tying up the coast on the employers. Bridges and Ryan and Tobin, then the labor chairman of the Democratic Party, believed it best to put off the disruption of relationships until after the pending Presidential election. The strike was delayed until October 28. After the strike began, the policy pursued was that, inasmuch as the prime end was to get something for the seafaring unions, the Longshoremen, then the most powerful of the unions, would not sign any agreement until the demands of the other unions had been satisfied. This policy was pursued, but Sapiro, after some of these other unions had made tentative agreements with employers, tried to get them finally to sign up and in that way leave the Longshoremen high and dry. Bridges, regarding this as an effort to split the maritime labor front, thereupon carried the issue directly to the seafaring unions and had Sapiro's policy reversed.

Similarly the two of them disagreed upon the policy to be pursued with reference to the Copeland "fink" books.¹⁵ Sapiro proposed that

¹⁰ See Section of Labor Relations, Federal Coordinator of Transp., Hours, Wages, and Working Conditions in Domestic Water Transportation, vol. 1, 180.

¹¹ See the Atlantic Agreement of 1917, and *In the Matter of American France Line*, 5 N. L. R. B. 64. Also see *In the Matter of American France Line*, 5 N. L. R. B. 70.

¹² Cf. *In the Matter of General Petroleum Corp.*, 5 N. L. R. B. 982.

¹³ This board, which consisted of Archbishop Hanna, Assistant Secretary of Labor McGrady, and O. K. Cushing, was appointed pursuant to Public Res. No. 44, 48 Stat. 1183.

¹⁴ *In the Matter of Pacific R. & G. Co.*, 2 N. L. R. B. 214.

¹⁵ *In the Matter of Associated Oil Co.*, 5 N. L. R. B. 893.

¹⁶ Under the Copeland Act of June 25, 1936, § 3, 49 Stat. 1930, seamen were required to carry continuous discharge books. Inasmuch as these books would show whether seamen had or had not continued to work during a strike, the seamen were opposed to their use on the ground that they would be the basis for union discrimination by employers. For this reason they were called fink books. (See H. Rept. No. 381, 75th Cong. 1st sess.)

even after the economic issues in the strike were settled that the strike should be continued until the Copeland Act was repealed.¹⁶ Bridges regarded this as in effect continuing the strike as a strike against the Government. He proposed instead that arrangements should be made with the Department of Labor and the Department of Commerce to defer putting the policy into effect until the act could be amended, but was insistent that upon the settlement of the economic issues the men should go back to work. The latter policy was pursued and the obnoxious act was amended.¹⁷

Further elaboration of the various points upon which conflict ensued between Sapiro and Bridges need not here be made. That conflict, beginning in the summer of 1936, became intense following the 1936 strike. It is plain that Bridges regarded Sapiro as a destructive factor in the maritime labor field, despised and distrusted his methods, and came to hate him personally.

The extent of his ill feeling is made manifest by his letter of July 16, 1937, to Hentschell, and the extent of Sapiro's venom can be gauged by Sapiro's letter to John L. Lewis of September 7, 1937. Each was definitely out to destroy the other's influence. For the moment the victory went to Bridges.

One further item of Bridges' testimony is also pertinent in this connection. Bridges testified that he met Browder for the first time in the late summer of 1936. He attended an open mass meeting at which Browder, then a candidate for the Presidency, spoke and afterward was introduced to Browder by Hanoff. Bridges stated that he had never met Browder since.

H. EVALUATION OF SAPIRO'S TESTIMONY

It is a difficult task adequately to articulate the bases upon which Sapiro's testimony must be assessed, for demeanor and manner counted so greatly in this connection. His character is intrinsically important in any such assay. Sapiro's character was revealed partly upon the record and partly by his demeanor. Upon the record we find a man whom Judge Knox, the senior district judge for the United States District Court for the Southern District of New York, condemned twice in no uncertain words as being willing to see the administration of justice polluted at its source. His earlier activities in connection with the organization of trade associations in Chicago and New York, even though he was acquitted in the one indictment that was brought against him, hardly help to build a sense of confidence in his integrity. His work with the maritime unions on the Pacific coast gives one a similar impression. A lawyer with as much intelligence as Sapiro undoubtedly possesses, if he also has true integrity and a sense of responsibility toward his clients, is not normally discovered later to be in such difficulties with the cause he purports to represent; nor does

¹⁶ Sapiro denied this. He stated that he believed the matter could be adjusted effectively for the time necessary to procure a congressional amendment by enjoining the collectors from requiring the use of the books. (But cf. *Johnson v. Rylander*, 18 F. Supp. 689, where a preliminary injunction brought by Sapiro against the collector in San Francisco was denied by the United States District Court for the Northern District of California.) Sapiro claimed that he sold his policy to all the unions despite Communist opposition.

¹⁷ (See act of Mar. 24, 1937, 50 Stat. 49.) "The seamen representing the West Coast Independent Seamen's Organization, the American Federation of Labor, and the Department of Commerce, through the Bureau of Navigation, have agreed upon the terms set forth in the pending bill." (Senator Copeland in 81 Cong. Rec. 2468. See also 1937 Report of Secretary of Commerce 146.)

a man of integrity engage in the curious tactics that Sapiro pursued in the summer of 1937—seeking to cooperate with Browder and at the same time damning Browder's associates in the fashion in which he did in his letter to Lewis. His lack of loyalty to the causes that he purported so devoutly to serve is again illustrated by the fact that his later clients were his earlier clients' enemies.

Sapiro is not an unusual type. His testimony makes him out to be a man who trades upon his associations to their fullest extent and who, in the effort to build himself up, speaks glibly of what he purports others have told him. By purporting to share confidences he seeks to draw confidences from others and thereby hopefully cements a relationship beyond the bounds of dissolution. One gets the impression that truth matters little in this process, the concern being the end rather than the means.

Sapiro's testimony is interesting from two other angles. One is the extent of the self-serving declarations that it contained. He was careful—too careful—to give the impression of a man devoutly bent upon serving the cause of labor, but believing that at the present time it is following the lead of false messiahs. He was eager to establish his disapproval of Communist tactics and philosophy, but at the same time, in order to preserve his role as a liberal, he took great pains to protest his regard for individuals in the Communist Party, his friendship and close association upon an intellectual level with them, and his consequent admission into at least outer fringes of their confidence. Still pursuing his liberal role, he took pains to express his distrust of Doyle, of Captain Hynes, and of Knowles. He protested somewhat too much that his interest was still that of bringing about labor unity and peace on the water front for his own litigious tactics can hardly be said to comport with that desire.

Finally, Sapiro's testimony possesses elements of inherent improbability. No reason exists why it should have been necessary for Bridges to meet Sapiro for the first time secretly and in the dead of night. Bridges was not pursuing policies and tactics that required his concealment. None of the other meetings between Sapiro and Bridges were given this aura of conspiracy and mystery. One wonders again why Bridges on such slight acquaintance, and fully conscious then of the possibility of deportation proceedings being initiated against him, should so suggestively intimate to Sapiro, when he was then at odds with him, his connections with Browder and the Communist movement.¹⁸ One wonders again what reason should have prompted Bridges, when the rift between him and Sapiro was becoming increasingly more serious, to tell Sapiro by name all the alleged undercover Communists in the labor movement of the Pacific coast. Again, considering the alleged policy of concealment pursued by Communists in labor organizations, it is strange that Browder, upon being accosted by Sapiro in a public cafe, should so readily admit Bridges' Communist affiliations; and it is somewhat odd that on the next day, after an ex parte statement from Sapiro on the maritime situation, Browder should be so willing to translate Sapiro's suggestions into an "absolute order" to Bridges. Mere friendship gives no adequate explanation for such a course of conduct. Furthermore, it is exceedingly

¹⁸ No testimony in proof of the alleged Communist meeting on the beach by the Fleishacker pool was ever offered save that Detrich testified that he knew such meetings occurred but only upon the basis of hearsay.

strange that Hudson, who theretofore was unknown to Sapiro, and who, according to Sapiro, was familiar with Sapiro's opposition to the policies that the Communist Party was pursuing, should so readily tell Sapiro of the manner in which Bridges was forced to repudiate his word and take the party line. People can conceivably act in ways as extraordinary as these, but something more than the word of a disbarred and repudiated attorney seems required to carry such a burden of proof.

4. MILES G. HUMPHREYS

A. INTRODUCTORY

Miles G. Humphreys¹⁹ became a member of the Communist Party in Oakland, Calif., in 1924. In 1927 he was dropped from the party for nonpayment of dues. He joined the Communist Party again in New York City in 1930 or 1931, and was later transferred to California. He ceased paying dues to the party in January of 1937, and ceased to be a member of the party sometime between March and May of 1937.²⁰ Sometime later he was expelled from the party.

Humphreys was active in trade union matters, specializing in the problem of organizing men into unions. Indeed, according to his claim there were few unions in Oakland organized from 1936 on for which he had not been responsible. As a member of the Communist Party, Humphreys had held many different positions. Among them were unit organizer, section educational director, organizational secretary, section organizer and member of the State committee. Until recently he was a member and business agent of Local Industrial Union No. 96, a C. I. O. union, and also an organizer and delegate to the C. I. O. Labor Council of Oakland. In the former capacity he received \$35 a week; in the latter \$50.

B. HUMPHREYS' TOP FRACTION MEETINGS

It is important in analyzing Humphreys' testimony to see its progression, i. e., the incidents as he described them on direct examination and the changes in these incidents that he was forced to admit under cross-examination. Humphreys said he had known Bridges since 1934 and stated that he knew Bridges to be a Communist because he sat with him in some 20 or 30 Communist meetings in San Francisco and in 1 in Los Angeles. These meetings were State committee meetings, State executive committee meetings, and top fraction meetings. The first of the meetings occurred in 1935. The top fraction meetings all occurred in the C. I. O. headquarters in San Francisco. He testified that today fraction meetings are referred to as caucus meetings when a Communist speaks of them to a nonparty member, but as fraction meetings as between Communists. These fraction meetings he

¹⁹ Humphreys was called by the Government as a rebuttal witness. But since none of his testimony is in the nature of rebuttal testimony, it is appropriately considered at this time.

²⁰ The circumstances under which and the time when Humphreys ceased to be a member of the Communist Party are later of some significance. On direct examination he stated first: "I quit the Communist Party in April or May of 1937." Again on direct he said: "I ceased to be a member, I believe, it was in March or April." Under the rules of the Communist Party, if he ceased to pay dues in January, he should have been suspended in March and dropped from the rolls in May.

stated could not be attended by any save Communists.²¹ He was emphatic on this point,²² insisting upon it thrice,²³ four times,²⁴ and even five times.²⁵ Humphreys, however, made two grave errors. By his own direct testimony he placed these top fraction meetings in 1937, after he had not only ceased to be a member of the Communist Party but had turned back his Communist membership book. He also placed them in Bridges' C. I. O. headquarters, offices which Bridges did not occupy until after Humphreys had ceased to be a member of the Communist Party.

His belabored effort to explain the quandary that this left him in deserves quotation:

Q. I see. Now, as a non-Communist, Mr. Humphreys, why were you invited to all the top fraction meetings that were held in San Francisco?

A. I wasn't.

Q. You came and they allowed you to stay?

A. I didn't say I attended all those meetings.

Q. I thought you said that you attended maybe 20 or 25 meetings over a period of some 4 or 5 months. Didn't you testify to that?

A. Yes, I did.

Q. Was your testimony wrong?

A. Not exactly.

Q. Well, was it right or was it wrong?

²¹ Humphreys stated:

"Q. Could a fraction meeting ever be attended by persons who are not Communist Party members?"

"A. Not a fraction meeting. I might qualify that."

"Q. Any way you wish."

"A. Except the meeting that I walked into in Los Angeles. It is possible that fraction meetings are walked into by non-Communist members, and then they are turned into a so-called caucus."

²² Humphreys' second reference to this matter is the following:

"Q. I think you said you attended between 20 and 30 meetings with Harry Bridges of the Communist Party."

"A. Yes."

"Q. Were each and every one of these meetings meetings of the Communist Party solely as distinguished from meetings of the union?"

"A. Yes."

"Q. In each instance were the men who were present members of the Communist Party?"

"A. Yes."

"Q. Could anyone, other than a Communist Party member, have attended these meetings?"

"A. Not these meetings; no."

"Q. Why?"

"A. Because they were Communist Party meetings exclusively. We have had many caucuses, or meetings other than these meetings where Harry Bridges was present; but these meetings were Communist Party meetings exclusively."

"Q. Would they be fraction meetings or top fraction meetings?"

"A. Top fraction meetings."

²³ Humphreys' third reference to the matter, the first reference on cross-examination, is as follows:

"Q. I want to get this very straight, Mr. Humphreys, with no mistake. About 2 or 3 months after Bridges became west coast C. I. O. director, at his office in the Balboa Building—

"A. (Interrupting.) At his offices.

"Q. (Continuing.) In the Balboa Building in San Francisco there began to be held a series of Communist top fraction meetings; correct?

"A. Yes."

"Q. With only Communists in attendance?"

"A. At these fraction meetings; yes."

"Q. I mean these Communist fraction meetings we are discussing?"

"A. Yes."

²⁴ Humphreys' fourth reference to this matter is as follows:

"Q. Were these Communist meetings?"

"A. Yes."

"Q. Were they open only to members of the Communist Party?"

"A. Yes."

"Q. Now, we are talking about top fraction meetings, aren't we?"

"A. Yes."

²⁵ Humphreys' fifth reference to this matter is, as follows:

"Q. All of these people that attended these meetings were Communists?"

"A. At the meetings that I have specified as Communist Party meetings, yes."

"Q. Well, that is the top fraction meetings?"

"A. Yes. We have had others that attended meetings that were not Communists."

"Q. That would not be the top fraction meetings?"

"A. No."

A. I had not been expelled from the Communist Party.²⁶

Q. Let me understand this. You left the Communist Party within the first 3 or 4 months of 1937?

A. I quit the Communist Party, yes.

Q. Is that correct?

A. Yes.

Q. All right. Nevertheless in the latter part of 1937 and in the early part of 1938 you went regularly to top fraction meetings of the Communist Party?

A. Yes.

Q. When you were not a member?

A. Yes.

Q. Those meetings, however, were open only to members of the Communist Party except for you?

A. I had not been expelled from the Communist Party.

Q. Let me ask this question. Those meetings were open only to Communist Party members with the exception of yourself?

A. Sure.

Q. Is that your testimony?

A. Yes.

C. OTHER COMMUNIST MEETINGS

One might leave Humphreys with this except that the balance of his testimony is also of interest as illustrating those pressures which led him into a morass of prevarication. The State committee meetings that he claimed to have attended with Bridges were between seven and nine in number.²⁷ They began in the fall of 1934. The last of these occurred variously in the fall of 1935,²⁸ the spring of 1936,²⁹ and the spring of 1937.³⁰ Humphreys also testified that he attended two State executive committee meetings with Bridges at 121 Haight Street.³¹ He admitted that he himself had never been a member of the State executive committee.

Humphreys also claimed to have surprised Bridges in a Communist fraction meeting in Los Angeles in August of 1938.³² He said that he was looking for one Roy Specter at the C. I. O. offices in Los Angeles and was told by a stenographer that he would find Specter in the conference room. Going to the conference room he found a meeting in progress of which Bridges was the chairman. This he stated was a Communist fraction meeting. Asked how he knew that fact, he gave several reasons. He stated that the persons present were Communists but he admitted that he did not know who all of the persons present

²⁶ Humphreys had placed the turning in of his Communist membership book prior to the time of these meetings.

²⁷ Humphreys stated that both Leech and Bridges were present at one or more of these meetings. Humphreys, however, stated that none of these meetings occurred at 121 Haight Street. Leech put his State committee meeting at which Bridges was present at 121 Haight Street.

²⁸ Humphreys further testified:

"After that, why I attended the State committee meeting up until the fall of '35. . . .

"Q. You don't recall any meetings in 1936?

"A. Executive committee meetings which were in the spring of '36, but I don't remember any State committee meetings during '36."

"A. The last State committee meeting of the Communist Party I attended was in the spring of 1936.

"Q. What is that?

"A. In the spring of 1936."

"A. The last State committee meeting I attended was in the spring of 1937. I attended this meeting upon the request of Carl Barnes over the question of starting a newspaper."

²⁹ Close scrutiny of Humphreys' testimony will show that he placed these meetings once in 1935, but mostly in 1936.

³⁰ Humphreys first put this meeting in August of 1935:

"Q. Have you ever sat in a Communist Party meeting with Harry Bridges in Los Angeles?"

"A. I happened into a meeting that Harry Bridges was acting as chairman of."

"Q. When was that, please?

"A. August 1935.

"Q. August 1935?

"A. Yes."

were, and though there were 25 or 30 persons there, he could only recall the names of Bridges, Specter, McCarthy, and Mitchner.³³ The second reason that he gave was that the meeting must have been a Communist meeting for it was neither a C. I. O. council meeting nor a C. I. O. executive board meeting; because some of the persons present were not members of either group. A third reason was that he had not been notified of the meeting. He believed that he should have been because the meeting concerned itself with a strike in progress in the American Can Co. and he was interested and concerned with the strike. A fourth reason was "the manner in which the discussions were held," a matter which reduced itself to the fact that no minutes were taken and that the remarks were made in an informal manner though it was a "formal meeting."³⁴ Further analysis of Humphreys' chain of thinking seems unnecessary.

D. HUMPHREYS' OCCASION TO TESTIFY

Humphreys stated that he was first asked to testify in this proceeding by Government officials Phelan and Bonham, a statement he had to correct on redirect examination to Farely and Bonham. He refused at that time to testify for the Government. He next stated that he interviewed Government counsel, Mr. Shoemaker, at the latter's request and that on that occasion he was asked questions which together with his answers were transcribed by a stenographer. He was even certain on redirect examination by Government counsel that his answers were taken down by a stenographer. When counsel for the alien pressed for the production of this statement, Government counsel were forced to state that Humphreys' questions and answers on that occasion had not been transcribed and that there had been no stenographer in the room.³⁵

E. CONTRADICTORY TESTIMONY

The explanation of Humphreys is to be found in the testimony of several other witnesses. Bridges stated that beginning in the fall of 1937 almost weekly meetings of C. I. O. officials in the San Francisco Bay area were held in his offices and that Humphreys, then an official in Oakland, would be present at these meetings. He also stated that in July and August of 1938 labor troubles connected with the fishermen and the workers in the American Can Co. frequently required

³³ Specter was admittedly a Communist. There is no evidence other than Humphreys' allegation, to show that McCarthy and Mitchner were Communists. Humphreys stated that the word "Comrade" was used by members of the group two or three times, but this he stated was not a reason for his concluding that the meeting was a Communist meeting.

³⁴ Humphreys' basis for this conclusion is contradicted by set forth in the following three quotations:

"Q. All right. Now, was this a formal or an informal meeting?
"A. It was a formal meeting, because it was definitely called—Roy Specter knew of this meeting and attended this meeting."

"Q. But it was called in a formal manner?"

"A. The way all fraction meetings are usually held."

"Q. Do you know how this meeting was called?"

"A. Well, I know that I was supposed to meet Roy Specter in the morning, but I didn't meet him."

"Q. Do you know how the meeting was called?"

"A. No; I don't."

³⁵ M. SHOEMAKER (interrupting). Let me state right there that the witness is slightly confused. I never had a stenographer with me. I think that it was Tuesday night, if I recall it, and he did make a statement some time ago, as I recall it, before one of our other men; but I didn't have any stenographer with me the other night, and I never gave him a copy of any statement. He may have gotten a copy of the other statement which he gave to the Examiner."

him to go to Los Angeles, and that when he went there his normal practice was to confer with the union leaders concerned. Bridges stated that Humphreys was in some of these early conferences until by Bridges' orders he was barred because of the suspicion that Humphreys was an agent of the employers.

Charles A. Duarte, president of the Oakland unit of the International Longshoremen and Warehousemen's Union, testified that during the teamsters' blockade—a struggle between the A. F. of L. teamsters and the C. I. O. longshoremen—Humphreys approached him and suggested that they should get together a group of 10 or 15 warehousemen and physically take over the control of the Teamsters' Hall, then call a meeting and put themselves in control of the teamsters' union. As a result of this proposal charges were preferred against Humphreys before the labor council, which Duarte was deputed to prosecute. The charges accused Humphreys of advocating a policy of terrorism and of promoting strikes in the canneries in contradistinction to the policy then being advocated by the council. Humphreys was found guilty of both these charges and removed from his official position in the council.³⁶

Arthur T. Johnson, a member of Local 76, C. I. O., United Automobile Workers of America, testified that in October or November of 1937, because organizational activities within the Chevrolet plant had slowed down, his head committeeman had called together a group of about 15 men. Humphreys addressed this group and urged them to organize "goon squads," or groups of men that would be instructed in methods of fighting and the use of small arms to promote their organizational drive by threats of physical force. The group, however, had no patience with this suggestion and refused to take Humphrey's plans seriously.

Beverly Chatman was a member of a local C. I. O. trade union and was employed by the Blue Bird Potato Chip Co. He was the shop steward of his group and thus came into frequent contact with Humphreys. He stated that Humphreys had induced him to join an organization called the Legions of Democracy,³⁷ whose purpose was to preserve democracy, promote industrial peace, and oppose all forms of communism, nazi-ism, and fascism. Chatman stated that he joined because he was opposed to communism and agreed to take a position as organizer at \$35 a week. That job, however, never materialized. Chatman stated that on one occasion he, as shop steward, went with Humphreys to discuss certain grievances with his employers, Baer and McAphee. During that discussion Humphreys asked Baer for financial help for his Legions of Democracy, which Baer promised him. The picture of the purposes of the Legions of Democracy gradually disgusted Chatman so that he dropped out of the organization. Chatman also stated that Humphreys suggested to him that he should be one of the group that would take over the Teamsters' Hall by resort to physical violence.

Lew Z. Howard belonged to Humphreys' union, Local Industrial 96, and was chairman of its board of trustees. He stated that he was the presiding officer at a meeting of the union in June of 1939 in Odd Fellows' Hall at which the findings of the trial board against Hum-

³⁶ Humphreys accused the council of being 80 percent Communist. Less than 80 percent, however, of the council voted guilty on the charges.

³⁷ Humphreys admitted that he had organized this group.

phreys were presented to the union and Humphreys was given the opportunity to speak in his behalf. Some 450 members attended this meeting. Howard said that Humphreys, during the course of his speech, stated that there were rumors to the effect that he was going to testify against Bridges but that these rumors were false because he had no knowledge of Bridges' political affiliations.

Houston T. Parker was also a member of the board of trustees of Humphreys' union. He stated that the union trial board had found Humphreys guilty of substantially the same charges as had been preferred against him before the labor council. They recommended that a fine of \$1,000 should be levied against him. These recommendations were the subject matter of action before the union meeting in Odd Fellows' Hall and were adopted by the union. He said that Humphreys in addressing the union in his own behalf stated that, despite such rumors as there might be to the contrary, he was not going to testify against Bridges because he had no knowledge of Bridges' political aims.

Subsequent to these actions of the labor council and Local Industrial Union 96, Humphreys filed suits against both unions for his back pay, attaching the bank accounts of both organizations. At the time that these suits were filed Humphreys issued a public statement saying that he had chosen this method of answering and exposing a plot by Bridges, Goldblatt (Bridges' assistant), Ward, Schlipf, Schneiderman, Hanoff, Lambert, and the Communist Party to force him out of the labor movement. It is not clear whether Humphreys was asked by Government officials to testify prior to the issuance of this statement; his willingness to testify, however, dated from a time subsequent to the publicity given to his charges.

5. JOHN L. LEPPOLD

A. LEPPOLD'S OPINION EVIDENCE

John L. Leppold is a ship steward. He became a member of the Marine Cooks and Stewards Union in 1935. In 1938 he was expelled from the union after two trials³⁸ upon the ground that he had been engaged in the antiunion activities. Leppold stated that on the waterfront, because of his opposition to Communism, he had been given the name of "No. 1 red baiter," and that his union as well as other maritime unions were on record against "red baiting" activities. Since being expelled from the union, Leppold has had great difficulties in getting a position.

Leppold was of the opinion that Bridges was a Communist and based that opinion upon the following incident. At a labor meeting, at which Bridges was chairman, a motion was made to put a picket line about the German and Italian consulates. An amendment was offered to the motion that the picket line should be extended to include the Russian consulate and the headquarters of the Communist Party at 121 Haight Street. Bridges attacked the amendment as a red-baiting, stool-pigeon amendment. Just what happened to both the original motion and the amendment is left in some doubt by the record, but Leppold's testimony indicates that both were lost.

³⁸ Leppold's lawyer protested the first expulsion upon grounds not disclosed on the record. The protest, however, was heeded by the union and Leppold was given a second trial.

After this meeting Leppard stated that Bridges criticized him for "bucking the rank and file." Leppard asked Bridges if by that he meant the Communist Party. According to Leppard, Bridges made no answer, whereupon Leppard said: "If you mean the Communist Party, to hell with it. I won't have any part of it." Bridges then, according to Leppard, turned around and walked disgustedly away.

There is no testimony that particularly contradicts Leppard. Bridges always admitted that he was militantly opposed to what he conceived to be "red baiting" tactics because of his opinion that the employees and the conservative element in labor tended to condemn progressivism by calling it Communism.²⁰ For that reason many of the unions had passed resolutions condemning "red baiting" tactics.

6. THEODORE M. STARK

A. RAPPORT'S REFERENCE TO BRIDGES

Theodore Marion Stark lives in the neighborhood of Bellingham, Wash. He joined the Communist Party in August of 1934, but in 1937 was expelled. He was sentenced in 1924 to 2 years in the reformatory for riding in a stolen automobile. In 1936 he received a 60-day suspended sentence for distributing handbills.

Stark testified at length upon Communist doctrines, tactics, and strategy. But Stark's testimony with reference to Bridges' affiliations was limited to one item. Stark testified that he had never met or seen Bridges. He had heard of him as a militant labor organizer, but the only time that he had heard of him in connection with the Communist Party was on an occasion in January of 1935 in which some Communists were discussing with Rapport, the Communist district organizer, means for distributing some foreign literature in sea-going vessels. The following is Stark's statement in that connection:

Maurice Rapport, the district organizer, said "Well, here's a way that Comrade Bridges"—then he turned around and said "Harry Bridges" in Seattle—"in Frisco," rather, "the way he handles the method of getting out this literature, directing the work," is the way that the district organizer put it, "such as concealing it in places aboard ship, in the funnels, between floors of lumber when they floor with the lumber and stuff like that."

This literature which Stark and the others were to distribute called upon the Japanese and Chinese to join labor unions and strive for better pay and better conditions. It did not, so far as Stark knew, call upon them to join the Communist Party. Stark also testified that when Rapport used the expression "Comrade Bridges" and then changed it to "Harry Bridges," he did not get the impression that Rapport was trying to cover something up. Stark stated that he got no particular impression from that remark.

²⁰ "A. [Bridges] . . . In 1933 and 1934 industrial unionism was Communism. Anybody that talked industrial unionism at that time was declared a Communist.

"For example, if you supported the release of Tom Mooney in most of the unions you were declared to be a Communist.

"At that time the unemployment insurance bill, known as the Lundein bill for unemployment insurance, was pending in Congress. I presented resolutions in support of the same to our meeting in support of that bill and they were voted down because they were said to be communistic. The A. F. of L. was on record against unemployment insurance at that time and claimed it would wreck the union. Their convention in 1933, or 1932, at that time condemned the resolution for unemployment insurance."

7. FREDERICK ALLEN

A. INTRODUCTORY

Frederick Allen is a resident of San Francisco and a former secretary of the Fish Reduction Workers' Union.⁴⁰ He is or was a member of the Marine Firemen's Union as well. Allen succeeded Ernest Ramsay as secretary of the Fish Reduction Workers' Union in September of 1937 and continued in that position for a little more than a year.

Allen testified that following the suggestion of a man now dead, whose name he could not remember, he joined the Communist Party in January of 1937. When he resigned in November of the same year he destroyed all record evidence of his membership. Allen stated that he was not regarded as too reliable a member, nor did he believe that he ever had the confidence of the officers of the Communist Party. His knowledge of Communist doctrine was admittedly sparse. He could remember only one book or pamphlet, Browder's *What is Communism*, that he had read upon the subject. He attended only one meeting at 121 Haight Street, the headquarters of the Communist Party in San Francisco, and that was an open one. He had attended no "top fraction" meetings, but he stated that his group had fraction meetings every full moon.

B. THE COMMUNIST MEETING IN THE BALBOA BUILDING

In the summer and fall of 1937 the C. I. O. and A. F. of L. issue became of burning moment along the San Francisco waterfront. Allen testified that at one occasion between September 15 and October 15, 1937, after Bridges had become the west coast director of the C. I. O., he was requested to attend a meeting at Bridges' office in the Balboa Building. Going up there, he found present Botinovitch, Thomas, Espy, Wolfe, and Henderson. They conferred in a conference room not far from Bridges' own office. Bridges was not at this conference.

To appreciate the nature of this conference, it is necessary to know something of the people who attended it. Botinovitch was the business agent of the United Fishermen's Union; Espy, with whom Allen stated he was "very vaguely acquainted," was an official from Seattle of the United Cannery, Agricultural, Packing, and Allied Workers of America; Henderson, whom Allen had never met before, and who had come on from the East, was president of that union; Thomas was an official from the North of the United Fishermen's Union; Wolfe was the president of the San Francisco Union of Alaska Cannery Workers. Prior to this time some of the unions in the fish industry had already affiliated themselves with the C. I. O.

After the group had gathered Allen stated that he asked Henderson where Bridges was. Henderson replied that Bridges was not going to attend and then a few moments later said: "Well, let us get started here. We are all party members, and Mr. Bridges has to go to Oakland, and he won't attend." They then got down to business which

⁴⁰ The Fish Reduction Workers' Union embraces persons employed in the processing of fish for fertilizer, cat and dog food, and the like. It embraces some 150 to 250 at this time.

was a consideration of the question whether the Fish Reduction Workers' Union should affiliate itself with the C. I. O.

Allen stated that he objected to the way in which this conference sought to ramrod him into the C. I. O. He gave no details as to the nature of that ramrodding process. Instead he testified as follows:

Q. (By the examiner.) • • • Were there objections voiced at that meeting to joining the C. I. O.?

A. No.

Q. No. So that, in substance, a suggestion by Mr. Botinovitch or Mr. Henderson to join the C. I. O. would have been greeted with approval by everybody there concerned?

A. Yes.

Q. Including yourself?

A. Yes.

Q. You were in favor of joining the C. I. O. then?

A. Yes.

Allen was quite certain that this was a Communist meeting. No specific reason for its being such a meeting was adduced by him other than Henderson's alleged remark. Henderson, it will be remembered, never met him before; nor was Allen quite sure who Espay was. There is no evidence other than Henderson's alleged remark to show that Henderson or Espay or Thomas or Wolfe or Botinovitch were members of the Communist Party. Allen did not state that he had attended other Communist gatherings with any one of these persons. Other than Henderson's alleged remark, his basis for inferring that this was a Communist meeting is contained in the following:

Q. (By counsel for the Government.) Could this have been a meeting of persons other than members of the Communist Party?

A. No.

Q. Why couldn't it have been a union meeting?

A. Well, because there were various unions represented there; there was the Alaska Cannery Workers' Union, there was the Fish Reduction Workers' Union, and I don't know what Conrad Espay represents from Seattle.

Q. What was to be the subject of the meeting?

A. The subject of the meeting was to go C. I. O. and the procedure.

Q. Well, who was to go C. I. O.? The Communist Party?

A. No, the various unions.

Q. In other words, the subject up for discussion was whether or not the Communist Party members, so far as they control the situation, were to take the unions over into the C. I. O.; is that correct?

A. That is correct.

There is nothing to indicate that subsequent to this meeting Allen, although he testified that he was entirely agreeable to affiliating with

"It should be noticed that this is a leading question. There is no further reference by Allen to this matter. Instead he testified as follows:

"Q. (By the examiner.) Of course, that problem of a union affiliating itself with the C. I. O. is a rather complicated problem, is it not?

A. Yes.

"Q. That is, there are a lot of other things to be considered besides the mere question of emotion which one may have in that matter, technical matters, details with reference to funds, details with reference to charter, internal union politics, all those matters?

A. Yes.

"Q. I suppose they were considered at length that evening?

"A. Well, I don't think that there was any doubt at all in our mind but what these things could be accomplished.

"Q. But was there discussion as to the details of carrying out the program of joining the C. I. O. at that meeting?

A. No.

"Q. No discussion as to the details?

A. No.

"Q. No discussion, for example, as to what would happen to the funds when a C. I. O. charter was taken out and the A. F. of L. given up?

A. No."

the C. I. O.,⁴³ did anything pursuant to any resolve that was agreed to at this meeting. He called no fraction meeting of his fellow Communists; he did not even discuss the "instructions" that he received at this meeting with any fellow Communist. Instead there follows this sequel.

C. ALLEN'S DIFFICULTIES WITH HIS UNION

Some time in late October a vote on affiliating with the C. I. O. was taken among the members of the Fish Reduction Workers' Union. This vote was taken by mail and the members voted for the C. I. O. in the ratio of about 2 to 1.⁴⁴ Prior to the mailing of the ballots a conference was held as to what should be done with about \$4,000 of union funds that was in Allen's possession.⁴⁵ To avoid difficulties in this connection between claims that the A. F. of L. and the C. I. O. might make to these funds, a plan was proposed whereby the union should turn these funds back to the members and the members would in turn pay them and their dues to a benevolent association set up for the purpose, which association could then turn them over to the C. I. O. or the A. F. of L. as its membership might direct. What happened subsequently to this and what Allen's position was on this plan the record leaves in some doubt. It is clear, however, that a motion was passed at a union meeting authorizing Allen to turn over the funds to a selected committee⁴⁶ and that he refused to do so. Thereupon, in accordance with the California procedure, a citation was served on Allen to come to the district attorney's office to show cause why a criminal complaint should not issue against him. Allen, before the district attorney's representative, took the position that he could not turn these funds over because he was a bonded officer of the A. F. of L.⁴⁷ He said he had consulted with Vandeleur, an A. F. of L. leader, and Vandeleur had threatened to cite him if he turned the money over. The district attorney's representative, realizing that this was an A. F. of L.-C. I. O. contest, refused to intervene.

The sincerity of Allen's position in this respect may well be doubted; for shortly thereafter he wrote the union offering to turn the money over minus his expenses upon receipt of an honorable withdrawal card from the union. Prior to this charges had been preferred against Allen before the union, and Allen attempted to defend himself.⁴⁸ Certain it is that Allen's conduct precipitated a fierce internecine dispute. His conditional offer to pay over the money was rejected and he was removed from his post in the union. He has had difficulty since in securing employment on the water front. These and all his

⁴³ Compare the following besides the testimony above quoted:
"Q. [By the examiner.] But I am talking about this meeting [the meeting in the Balboa Building]. Did you change your mind about your union affiliating with the C. I. O. subsequent to that meeting?"

"A. No, I have never changed my mind. * * *

"Q. Did you oppose joining the C. I. O. then?"

"A. No."

"Q. At no time?"

"A. At no time."

⁴⁴ Allen claimed that this victory for the C. I. O. was mainly attributable to Communist propaganda, though he admitted that less than 10 percent of the men who voted for the C. I. O. were Communists.

⁴⁵ This \$4,000 was kept by Allen in cash in a safety-deposit box.

⁴⁶ Allen testified that he did not oppose this motion.

⁴⁷ Allen's counsel on this occasion was Milton Sapiro, an associate of Aaron Sapiro.
⁴⁸ There is reference in the record to another meeting at the Labor Temple called by Allen in which he stated his position. The time sequence with reference to this meeting is impossible to determine.

troubles he attributes to the Communist Party.⁴⁸ Allen, however, kept the \$4,000, which he says he spent in organizing another union in Aberdeen, Wash.

D. ALLEN'S CONNECTION WITH FERGUSON

Allen's occasion to testify in this proceeding arose out of a chance meeting that occurred between him and J. E. Ferguson at the Tanforan race track. An implied reference was made by Ferguson to the coming deportation hearings and Ferguson told Allen that he might want to get in touch with him. Ferguson took Allen's telephone number. Some days later someone, unknown to Allen, called him, said he was speaking for Ferguson and told him that Government counsel would shortly get in touch with him. A few days later Government counsel called and requested him to come down to the Federal Building.

E. BRIDGES' ACCOUNT OF THE BALBOA BUILDING MEETING

Bridges testified that he undoubtedly met Allen but could not remember doing so on any specific occasion. He could not remember the meeting to which Allen referred, but admitted readily that a meeting between the men named could have been held in the conference room referred to by Allen. That room was open to many groups for the purposes of a conference, and conferences in the fall of 1937 on the issue of affiliating with the C. I. O. came thick and fast and might frequently have been held in that room.

8. WILLIAM H. HOWARD

A. BRIDGES' STATEMENT TO HOWARD

William Henry Howard was a member of the Marine Firemen's Union from 1935 until 1938. He ceased then to remain a member because he became disgusted with the policies that the firemen were pursuing. While a member of the firemen, Howard became a member of the strike negotiating committee for Portland in the 1936 strike. Howard has not been to sea since 1937. Since then he has worked ashore seemingly unprofitably. He was on pick-and-shovel work with the W. P. A. in Portland for 6 months, but 2 months before he testified, a cut threw him out of even this meager employment.

Howard's testimony, other than hearsay testimony, boils down to one statement alleged to have been made by Bridges. During the 1936 maritime convention in San Pedro, Howard met Bridges on the sidewalk in front of the Radio Telegraphers' Union Hall. Howard said that Bridges urged him not to follow the lead of certain delegates and warned him that these delegates would be waving the red flag at Howard, telling him "what a Commy" Bridges was. The remainder of the conversation is best set forth in Howard's own words:

I says, "That is neither here nor there with me, Harry. I don't care what they say."

He says, "Maybe I am a Commy. If I am, I might be damn proud of it."

I says, "I don't care, Harry. It doesn't make any difference to me what you are."

⁴⁸ Allen testified to having attended a Communist fraction meeting shortly before the issuance of the citation. He says that he was criticized at this meeting for not turning the funds over and that he therupon resigned and then and there severed his connections with the Communist Party.

B. HEARSAY TESTIMONY OF HOWARD

In addition to this, certain hearsay testimony was introduced. Howard states that one Rover, whom he identified only by having the first name of "Bill" and being a member of the firemen's union from Seattle, had urged him to join the Communist Party. This solicitation occurred in 1937 in a saloon on Third Street in Seattle. In the course of Rover's selling efforts Rover made the point that the party had "a lot of big shots" in it. Again Howard's picturesque language serves:

I says, "Have you?" I says, "Well," I says, "probably you have. But," I says, "who are they that are so big?"

"Well," he says, "don't you know?"

And I says, "No, I don't."

"Oh," he says, "you ought to know."

"Well," I says, "probably I ought to know, but I don't."

"Well," he says, "how about Bridges?"

I says, "Is Bridges a Communist?"

He says, "Why, don't you know that? You should know it."

I says, "No, I don't know it." I says, "I always thought he was, but I don't know it for certain." I says, "Are you one?"

He says, "Why, certainly."

And I says, "You say Bridges is a Communist?"

And he says, "Yes."

"Well," I says, "that is all right. If he is a Communist, that don't make me one. I don't intend to be one."

"Well," he says, "then the only thing I can say," he says, "is you are on the wrong side of the fence."

I said, "All right, I will stay on it. And let him stay on his side."

About the same time one Catalonga, who was on a strike committee with Howard in Portland, also sought to get Howard to join the Communist Party. Catalonga stated, according to Howard, that Bridges had suggested to him that he feel Howard out. Howard replied that if that were true Bridges ought himself to come and ask him to join. Howard testified that Catalonga also told him that Bridges was the "high muckety-muck" in the Communist Party.

C. HOWARD'S OPINION EVIDENCE

Another item of opinion evidence was offered by Howard which deserves brief summarizing. Howard was asked by counsel for the Government whether during the 1937 convention in Portland anything had transpired that would make him believe that Bridges was a Communist. Howard replied that there was one in particular and that was Bridges' introduction of a resolution that the affiliated unions of the Maritime Federation should join the C. I. O. Howard stated that "we had made a study of the C. I. O. and we came to the conclusion that the C. I. O. was a Communist-controlled organization. * * * We considered it [the resolution] as a deliberate attempt of the Communist Party to dissolve the unity that we held in the Maritime Federation."

Comment upon the opinion evidence offered by Howard is unnecessary. Other witnesses also regarded the C. I. O. and the Communist Party as substantially the same. Howard's direct testimony is entirely credible.¹⁰ Consideration of its weight can well be deferred until Bridges' own testimony in that connection is analyzed.

* Bridges admitted having encountered Howard at the San Pedro Convention.

B. EUGENE G. DETRICH

A. HYPOTHETICAL ADMISSION BY BRIDGES

Eugene George Detrich is now an international organizer for the International Longshoremen's Association, the A. F. of L. longshoremen's union. He served in the Navy many years ago, terminating his relationship with the United States Government as a result of a bad-conduct discharge. Outside of one negligible incident he has not been involved with the criminal side of the law.

Detrich was on the stand for almost a day, but that day, though it produced much of interest in connection with the water-front difficulties in San Francisco, brought forth little evidence upon the issue of Bridges' membership in the Communist Party. Only two items of direct testimony are to be found. The first consisted of hypothetical admissions by Bridges of Communist membership. Their substance is set forth in the following answer made by Detrich:

Well, I have heard him [Bridges] asked on the floor of a meeting if he was a Communist. He always has evaded it; he puts it like this—something of this nature: "If getting out here and getting conditions for the workers," and so on and so forth, "is communism, I guess I am a Communist." Things like that—that is usually his way.

B. BRIDGES' SOLICITATION OF DETRICH

The second consisted of an asserted solicitation made by Bridges to Detrich to join the Communist Party. The testimony in that connection also deserves repetition:

Q. (By counsel for the Government.) Did Mr. Bridges ever ask you to join the water-front section of the Communist Party?

A. No, not directly; he never asked me that.

Q. You say "not directly"; did he ever do it in a roundabout way, or did he hint that you should—

A. (Interrupting.) Well, he left inferences that I should get smart to myself and get wise to the program that was going on, play it the right way, the way it had been programmed.

Q. Well, what impression did you get from his remarks?

A. I usually never gave it a thought; usually ridiculed it and stabbed it off.

Q. Did you feel, when he indicated that you should get educated,

A. (Interrupting.) I had a very good inkling what he was referring to, because I had been contacted previously by other people.

Q. What did you think he was referring to?

A. Well, lining up with the section, I guess; all I could figure it to be.

Q. Section of the Communist Party, is that what you mean?

A. Yes; the group we were programming.

Extended comment as to probative value of the first item of evidence is unnecessary. It proves only that Bridges was friendly to certain aims of the Communist Party—a fact that Bridges freely admits and which will be considered later. The weight of the second item should be gaged in the light of further analysis of Detrich's testimony.

C. MRS. BRIDGES' STATEMENT TO DETRICH

Apart from much testimony to the effect that there were persistent reports on the water-front that Bridges was a Communist—a fact which need hardly be doubted—Detrich offered one item of hearsay

testimony.⁵⁰ On one occasion, which Detrich said was either in 1935 or 1936, Detrich stated that he telephoned Bridges at his home. Bridges was out of town and Detrich talked to Mrs. Bridges. It is impossible adequately to summarize this conversation. Rather Detrich should speak for himself:

He hadn't been home for a few days, and his wife had a peeve on, and she told me that she didn't care if she never seen him again, and so on and so on, you know, and she said she was going to make it hot for him; and I laughed at her and tried to humor her along.

She says, "I am going to show him up for what he is."

I said, "What is that?"

She says, "Well," she says, "I have got his book."

And I said, "What do you mean—his book?"

She said, "I have got his book in the Communist Party. Everybody on the water front don't believe he is a Communist."

I said, "Aw, get off your foot, Aggie." I was calling her about meeting with Mr. Bridges, so I could talk to her that way.

She says, "Well," she had it, and she was going to flash it, give it to the world: she was going to call up one of the newspapers, I think, at that time and give it to them, she says.

I says, "You haven't got his book."

She says, "Yes; I have." * * *

Q. (By counsel for the Government.) Did you have any interest in it at all?

A. None whatsoever. I naturally thought it was just a little war between he and his wife. They get those peeves on, you know. * * *

Q. Was she telling you the truth or was she just talking?

A. At that time I never gave it a thought. I thought she was just talking.

Q. Have you given it any thought since?

A. Yes; quite a bit.

Q. What have you thought about it since?

A. I believe now that she did have it. * * *

Trial Examiner LANDIS. I am just anxious to know the date. You say that was sometime in '35; and, as I remember your testimony, you said that you did not believe her statement?

The WITNESS. I didn't. I never even give it a thought.

The WITNESS. Oh, I didn't even bother. I was kidding her along on the phone.

Trial Examiner LANDIS. Oh, you just regarded the thing as simply a facetious conversation?

The WITNESS. She was just a little mad at Harry, because other times I have called her up, too, and Harry had been out of town a day or two, and I get a snappy answer: she bawls him out.

It is difficult to take seriously hearsay testimony that Detrich himself at the time it was given believed to be mere talk.

D. DETRICH'S OPINION EVIDENCE

I. DETRICH'S RELATIONSHIP TO BRIDGES

Detrich's further testimony consisted of opinion evidence. One need not question the sincerity of Detrich's belief that Bridges was a Communist, but before it becomes possible to share it, some examination of the basis for his belief should be made. Since Detrich's present belief is a rationalization based upon viewing a situation in retrospect, his present relationships with Bridges need also to be examined. He broke with Bridges first over Bridges' candidacy for the head of the

⁵⁰ Detrich also testified at one time that Harry Gross told him that Bridges was running the affairs of the Communist Party on the coast, but later stated that all that Gross did was to leave the inference, that Bridges, was a member of the Communist Party. This item of testimony deserves only notation, not consideration.

International Longshoremen's Association on or about 1935. Later Bridges publicly attacked Detrich for not contributing 10 percent of his salary as international organizer for the benefit of the 1936 maritime strike fund. When Bridges finally successfully advocated that the Maritime Federation and its unions should affiliate themselves with the C. I. O., Detrich opposed him. Detrich remained in his important official post with the A. F. of L. International Longshoremen's Association, the great mass of his group having affiliated itself with the C. I. O. as the International Longshoremen and Warehousemen's Union. In that capacity he is now one of the plaintiffs in the litigation pending between the A. F. of L. longshoremen and the C. I. O. longshoremen.

II. THE ALBION HALL GROUP

Detrich has known Bridges for some 10 years. As longshoremen they worked together in opposition to the Longshoremen's Association of San Francisco, an alleged company union, that dominated the San Francisco water front prior to 1933 and was finally dissolved after the 1934 strike. In 1933 an independent union, the International Longshoremen's Association was organized and chartered by the American Federation of Labor. Bridges became a member of its executive board. The majority of the officials, however, seemed to men like Detrich and Bridges too reactionary and its president, Lee J. Holman, in the opinion of both of them was in the employ of the shipowners. It was in opposition to this reactionary official control that the rank and file movement was organized.

The opposition to the official International Longshoremen's Association policy in 1933 centered in the so-called Albion Hall or Equality Hall group. Bridges seemed to have been responsible for its organization. Detrich was one of its members and among other members were John Shoemaker,⁵¹ Henry Schmidt, J. G. White, John Shaw, and some 15 or 20 others. These men were all members of the International Longshoremen's Association. They met secretly before meetings of the International Longshoremen's Association and there formulated programs which they then would try and carry through the association. In the main they were successful. Detrich was very active in this group and he and Bridges were deputed to tour the coast in the effort to impregnate the longshoremen of the coast with their demands and their conception that maritime labor problems should be handled on a coastwise rather than a local basis. It is not too much to say that the strike of 1934 sprang from the policies initiated and sponsored by the Albion Hall group.⁵²

⁵¹ Bridges stated that he did not believe Shoemaker was a Communist at this time. He stated that he believed Shoemaker was now a Communist.

⁵² Detrich claimed that he quit the Albion Hall group because of its Communist policies. This seems clearly an afterthought. Detrich was one of the two men who was deputed to propagandize for their demands and brought about the calling of the coastwise longshoremen's convention that met on February 25, 1934, in San Francisco and voted to call a coastwise strike in the event that their wage-and-hour demands were not met. The Albion Hall group continued in existence until the end of the 1934 strike and then gradually dissolved as its purposes had been obtained. Detrich seems to have quit the group sometime before the 1934 strike. There is little doubt but that he was not as enthusiastically militant as that group as a whole was. His charge that the group was communistic springs from his belief that a number of its members were Communists, but the proof that the men he named, with the exception of a few, were Communists rests only upon his assertions. The fact that others of them were also Communists may well have been true. According to Detrich's own testimony a number of them were not Communists.

III. THE MARITIME WORKERS' INDUSTRIAL UNION

A brief reference to some of the events of this strike is necessary. The International Seamen's Union in 1934 was neither very active nor very militant. A number of the unlicensed seagoing personnel were then members of the Maritime Workers' Industrial Union. This union was organized along industrial lines, had been chartered by the Trade Union Unity League, and was unquestionably considerably more left-wing than the normal trade-union. Its policy and its program undoubtedly attracted into its fold many maritime workers who were either members of the Communist Party or were sympathetically inclined with its aims. Its constitution spoke in more radical and revolutionary terms of the necessity of remedying the plight of the worker and of the impossibility of doing so other than by resort to at least economic force.⁵³ It dwelt upon the class struggle and the iniquities of the bosses in sharper and more bitter terms than the manner in which those subjects are today touched upon in the constitution of the American Federation of Labor.⁵⁴ It undoubtedly had a number of Communists in important official positions. In the minds of many people the M. W. I. U. was a Communist or Communist-controlled union, despite the fact that a contrary conclusion was reached on January 3, 1934, by the Solicitor to the Department of Labor and confirmed by the Commissioner of Immigration and Naturalization.⁵⁵ It would be impossible on this record to determine the communistic or noncommunistic character of the M. W. I. U.; nor is it necessary to do so.

On May 9, 1934, the longshoremen went on strike. The M. W. I. U. then had a large number of men in the seafaring group than the International Seamen's Union. The M. W. I. U. went out on strike on May 10, 1934, in sympathy with the longshoremen. Bridges claimed that it was largely the pressure of the M. W. I. U. that forced the seamen's union officially to join the strike on May 15. Bridges' relationships with the M. W. I. U. were always friendly. Claiming that the International Seamen's Union neither welcomed members nor was an effective union until after the 1934 strike, Bridges admitted that he had frequently urged seamen, who were seeking some organizational nucleus, to join the M. W. I. U. possibly before the strike and certainly during the period between May 10 and 15. Here the testimony of Detrich and Bridges was contradictory. To Detrich the M. W. I. U. was a Communist union and Detrich claimed that Bridges had urged him to join it.⁵⁶ Bridges admitted freely that

⁵³ The constitution of the M. W. I. U., for example, contains phraseology of this character: "Victory in this struggle (the revolutionary struggle of the whole working class against the capitalist system) can be won only by the most relentless, militant, and revolutionary struggle for the whole working class." * * * * It (the M. W. I. U.) rejects and condemns the treacherous class-collaboration policy of the A. F. of L. which seeks to delude the workers into believing that it is possible for them to live 'in peace' with the capitalists. * * * *

⁵⁴ Compare the following from the preamble of the constitution of the American Federation of Labor: "Whereas the struggle is going on in all the nations of the civilized world between the oppressors and the oppressed of all countries, a struggle between the capitalist and the laborer, which grows in intensity from year to year and will work disastrous results to the toiling millions if they are not combined for mutual protection and benefit."

"It, therefore, behooves the representatives of the trade and labor unions of America in convention assembled, to adopt such measures and disseminate such principles among the mechanics and laborers of our country as will permanently unite them to secure the recognition of rights to which they are justly entitled."

⁵⁵ See *U. S. ex rel. Boric v. Marshall*, 290 U. S. 709.

⁵⁶ Detrich testified that he "believed" Bridges was a member of the M. W. I. U. No effort was made to probe the basis of that belief. It probably stemmed from the activities noted above in which Bridges indulged.

he had urged seamen for the reasons stated to join the M. W. I. U., but had not urged the longshoremen to do so,⁵⁷ that he had welcomed the help of the M. W. I. U. and had worked with them, but that since the longshoremen had an effective union to which they could turn, he had not suggested that the longshoremen should join the M. W. I. U.

Bridges' admittedly friendly attitude toward the M. W. I. U. was demonstrated also by his subsequent actions. Following the termination of the strike the seamen's union still was opposed to the M. W. I. U. It started to pursue a policy whereby it both refused admittance to seamen who had become members of the M. W. I. U. and also discriminated against those of its members who had joined the union. Because of the help given the longshoremen by the M. W. I. U. Bridges protested this policy and claimed to have been instrumental in getting the seamen's union to accept members of the M. W. I. U., provided that they would then dissociate themselves from the M. W. I. U. This, according to Bridges, was responsible for bringing about the eventful dissolution of the M. W. I. U.

IV. THE INTERNATIONAL LABOR DEFENSE

Another incident which Detrich referred to as being a basis for his general belief that Bridges was a Communist also related to the 1934 strike. Detrich and Bridges were both members of the strike defense committee during the 1934 strike. The legal affairs of the strikers had been handled by one Leo Collins. Detrich claimed that Bridges brought about Collins' discharge and the employment of one George Anderson and the International Labor Defense. Detrich claimed that this was a move to put the Communist Party in charge of the strike because Anderson was known to represent Communists⁵⁸ and the International Labor Defense was claimed by him to be a Communist organization. In this connection Detrich testified that he and Bridges and some other members of the strike defense committee went one day to 121 Haight Street in San Francisco.⁵⁹ General problems in relationship to strike tactics were discussed there with a number of people including Elaine Black, an admitted Communist, who was then with the International Labor Defense. Bridges admitted that this meeting took place, stating that the International Labor Defense had offered its services to the strike committee and that committee had voted to look into the matter. Pursuant to that authorization this meeting was held. Detrich did not claim that anything relating to the Communist Party was discussed at this meeting nor that this was a meeting of Communists. Nor is there any evidence in the record to show the extent to which the International Labor Defense participated officially or unofficially in the defense of strikers.

V. BRIDGES' SUPPORT OF THE WESTERN WORKER

A third basis upon which Detrich seems to have based his opinion is Bridges' support of the Western Worker. The Western Worker was then the official newspaper of the Communist Party on the

⁵⁷ Detrich was a working longshoreman.
⁵⁸ This appears to be the same Anderson to whom Mills, when in jail, gave a statement and the Anderson who represented one of the defendants in the King Ramsay-Conner trial. There is no further evidence as to who Anderson was.

* This was not then the headquarters of the Communist Party.

Pacific coast. Detrich testified that at one time when the International Longshoremen's Association had been asked to subscribe to an advertisement in the Western Worker, Bridges had defended the paper, but the association had turned him down. Bridges' testimony on this point in the main corroborates Detrich. Bridges' testimony is quite exact and tends to give the setting of this incident. When the 1934 strike broke out, Bridges stated that the unions had great difficulty in getting their publicity out, for the daily press printed only the releases of the employers and not those of the unions. To this there were two exceptions—the Western Worker and the Catholic Leader. The Western Worker then proposed to the unions that it would print a special strike bulletin daily if the strike committee would accept it as its official paper. The consideration flowing to the Western Worker from this official acceptance was obviously the creation of support and sympathy from the unions for the paper, possibly resulting in increased subscriptions. Some sympathy and support for the Communist Party might also proximately flow therefrom. The offer was accepted by the strike committee and the unions, and Bridges stated that he urged its acceptance and even urged people to subscribe to the Western Worker. He stated that he also knew that there was a proposition placed before the longshoremen, evidently about this time, to subsidize the Western Worker or to give it a donation, but he could not remember whether the motion was passed or not. Bridges did not hesitate to leave the inference that he would have supported such a motion. Bridges' attitude in this general situation is described in some testimony in which he refers to conversations that he then had with Darcy,⁶⁰ the chief Communist official at that time in San Francisco:

A. In addition to that, 1934 maritime strike, when every other method was used to defeat it there was only one more argument left, and that was, of course, the cry of "Communism!" I discussed with Darcy many times the sentiment of the people down there and that we couldn't afford to have any dealings with them.

Q. You mean by "down there," down on the—

A. Our people on the water front.

Q. Yes.

A. And eventually that was what the program was. I didn't think it was fair because—

Q. You didn't think what was fair?

A. I will explain in a minute. I didn't think it was fair, the action we subsequently took, because amongst the only friends that we had in that strike—at least in the beginning, the only people that showed a little friendliness towards us—were the Communist Party and the Communist Party officials. However, there was such a red scare raised—an organized red scare

⁶⁰ Bridges' first contact with Darcy is described by him as follows:

"We had been on strike [the 1934 strike] about 2 weeks and there was a youth demonstration—that is, a Communist Party demonstration, a youth demonstration. They were parading or marching, and all of a sudden the police charged them. They bottled the whole bunch of them up in the street right in front of our union hall, across the street—and there was a line of police on each end of that street and in between they had 200 or 300 of these young kids—I would say, young boys and girls about 16 or 17, and then the cops closed in and they began to beat them to death."

"A lot of those people ran into our union hall and we hid them and concealed them. They were frightened to move and they didn't like to move and they didn't know what to do."

"Our strike committee contacted the Communist Party headquarters to ask them what they wanted to do with these kids, and I believe that Darcy was one. I think somebody else came down with him at that time, came down there to see us about it. I see what could be done. I don't exactly know what developed, but that was the first occasion because of the happening that I remember meeting Darcy."

raised—in the press that eventually we took certain actions in the union to openly claim and publicize in many ways that we had no dealings, contacts, or associations whatsoever with the Communist Party. It was only fair to tell them about this before it took place.

VI. BRIDGES' OTHER ASSOCIATIONS WITH THE COMMUNIST PARTY

Detrich's opinion was further based upon the fact that Bridges associated with Communists and that the policies his unions pursued were communistic. As to the former, Bridges has freely admitted the fact of such associations and such friendships. As to the latter Detrich was not very specific. An antiwar resolution and a resolution in favor of the Scottsboro boys seemed proof to Detrich of communistic tendencies, also the support by Bridges of an anti-Rossi political ticket. It is true that in that connection the United Labor Party ticket,⁶¹ which was headed by Redfern Mason, was supported by Bridges. These candidates, who were opposed to the alleged antilabor policy of Mayor Rossi, also had the support of the Communist Party, and Bridges was active in getting the Communist Party to support this ticket. It is further clear that on this issue and other political issues, such as the King-Ramsay-Conner and Modesto issues, Bridges sought and received the support of the Communist Party. In the EPIC campaign of Upton Sinclair he also sought their aid, but on that occasion it was not forthcoming. Consideration of the significance of Bridges' actions in these matters is best deferred until consideration can be given to Bridges' activities in connection with the Communist Party as a whole.

10. JAMES W. ENGSTROM

A. INTRODUCTORY

James W. Engstrom has been sailing in merchant ships from Atlantic and Pacific ports since 1926. Shortly before the 1934 maritime strike he joined a union for the first time, becoming a patrolman of the Marine Firemen's Union in Seattle. Before that time he had come into contact with Roy Hudson in Baltimore. Hudson, an official of the Marine Workers' Industrial Union, had asked him to join the Communist Party, but Engstrom had refused.⁶²

Engstrom first met Bridges in 1934. Bridges, he stated, was in Seattle following the 1934 strike trying to persuade the International Seamen's Union to accept former members of the Marine Workers' Industrial Union, among whom there were admittedly a number of Communists, upon the condition that they should give up their membership in the latter union. There is no occasion to question this statement, as Bridges freely admitted that he had persuaded the International Seamen's Union to adopt this policy.

⁶¹ This ticket was headed by Redfern Mason of the American Newspaper Guild. When the San Francisco Labor Council voted to support Rossi, the maritime unions generally disagreed. Independent candidates were then put in the field under the name of the United Labor Party in protest against Rossi.

⁶² Engstrom claimed to have attended at the invitation of Hudson, a Communist fraction meeting in Baltimore, the type of meeting which all the other witnesses testified was closed to all but members of the Communist Party.

B. ENGSTROM'S ACCOUNT OF THE WASHINGTON CONVENTION IN 1936

In January of 1936 Engstrom went to Washington to the convention of the International Seamen's Union of America, representing the Pacific coast firemen. Earl King, then secretary of the Marine Firemen in Seattle, was another representative. Engstrom stated that King asked him to help him to seat two east-coast delegates, who had not been properly designated as such. King wanted to see them seated because they were members of the Communist Party.⁶³ Engstrom agreed to do so and later the situation was discussed with King and Hudson. Hudson stated that Bridges would handle the work of organizing protests in favor of seating these delegates among the seamen on the west coast.⁶⁴

C. ENGSTROM'S TESTIMONY ON JOINING THE COMMUNIST PARTY

Among Engstrom's associates in Seattle was Walter Stack, an admitted Communist. Stack, Engstrom stated, asked him on several occasions to join the Communist Party, stating that he might as well join inasmuch as Engstrom was already following the party line. Engstrom said that Stack never definitely told him that Bridges and King were members of the Communist Party but did leave him with that impression.

In 1936 Engstrom was a delegate to the Seattle Labor Council. He stated that he was approached by Stack and some other unnamed Communists and asked to run for president of the council. Stack asserted that he and the other Communists would support Engstrom if he joined the party. Engstrom testified that joining the party was the only matter they insisted upon as a condition of supporting him, and that they did not ask him also to support the party line. Engstrom wanted this Communist support but was fearful that he would lose other support if it became known that he was a Communist. Stack assured him that the fact of his membership would be kept secret. Engstrom thereupon joined, gave Stack \$5, and was later issued a Communist membership book. This book he said he had later destroyed because he was fearful that it might be found.⁶⁵

Engstrom at no time paid any further dues than the \$5. Nor did Engstrom attend any of the Communist schools that other witnesses from the Seattle district, who were Communists, said they attended. Engstrom also claimed not to have attended more than "three or four or half a dozen at the most" Communist meetings during the period that he was a member, the last of these meetings having occurred early in 1937. Engstrom never resigned from the Communist Party but simply later stopped going to meetings. He ceased later to be a member of the Communist Party in his own mind but stated that

⁶³ Engstrom was not then a member of the Communist Party.

⁶⁴ Bridges' testimony in regard to this incident differs radically. He stated that his group on the Pacific coast were struggling to have delegates to the International Seamen's Union convention elected by the membership in opposition to the prevailing practice of appointing them. Some of the local unions elected delegates but the International Union refused to seat them. He and his group organized protests among the seamen against such action. "We had met," he said, speaking of King, Quintenton, and Engstrom, "and talked this matter over and planned this matter with those delegates before they ever left the west coast."

⁶⁵ The book was issued to him in the name of J. W. Strom.

he never took any overt action to sever his membership even to the extent of informing anyone of this fact, beyond that of failing to attend meetings.

D. ENGSTROM'S ACCOUNT OF THE SAN PEDRO CONVENTION

In June of 1936 Engstrom was a delegate to the Maritime Federation Convention in San Pedro. Earl King and Bridges were also delegates to the same convention. King and Bridges at that time were two of the outstanding men advocating left-wing policies. One day, according to Engstrom, he was asked by King to come up to his room. There he met Bridges. They asked Engstrom if he would follow the party line if they supported him for the presidency of the convention, making clear to him that they would not support him if he refused to follow the policies of the Communist Party. Engstrom replied that he would follow whatever policy that in his judgment would work for the best interests of the water front.

A short time thereafter at the convention meeting Engstrom stated that he opposed an amendment offered by Bridges.⁶⁶ King called him out of the meeting and stated that he should not oppose this amendment if he wanted Bridges' support for the amendment was part of the program of the Communist Party.

A day or so later Engstrom stated that he was asked by King to attend an evening Communist fraction meeting in the American Radio Telegraphers' Association hall in San Pedro.⁶⁷ He did so. He

"Engstrom's memory of the nature of this amendment was dim. He could only remember that it had something to do with the paper published by the federation, "The Voice of the Federation."

"On direct examination Engstrom stated that this was a Communist meeting. On cross-examination he was asked why he was willing to attend such a large fraction meeting if he wanted to keep the fact of his Communist membership concealed. The following colloquy gives Engstrom's explanation:

"Q. [By counsel for the alien.] Didn't you feel that this meeting, with 25 or 30 others, might expose your membership pretty generally?

"A. No. I will explain that. In fact, I talked to Earl King about it when he told me about the meeting taking place. I told Earl at that particular time, I said, 'Earl, if a meeting is held at this particular place, ARTA Hall, isn't it likely to leak out to the effect that it is a fraction meeting?' He says, 'No.' That can be taken care of. We can call it a left-wing group meeting."

"Q. And did he explain how he could justify to the other delegates that it was a left-wing meeting?

"A. Yes. For the simple reason that there were very few of those that weren't in the know that definitely knew who was in the party. In other words, to my knowledge everyone that was at that meeting at all times always stated that he was not a member of the party. Even Earl King stated that, as I did."

"Q. Is this correct? All the circumstances of the meeting, everything about the meeting, the character of the meeting, was such that it could have been called convincingly a caucus meeting, a left-wing caucus meeting, and not a party meeting?

"A. No. It could be by anyone that didn't know; yes. I will explain that. I would like to clear it up so you can get it clear. I knew that there were numerous left-wing delegates at that convention and were supporting the left wing right down the line that did not and were not asked to attend that meeting.

"Q. Well, let me ask you this question: When Earl King told you this meeting be passed off as a left-wing caucus—

"A. (Interrupting.) That is right.

"Q. (Continuing.) You were convinced by him, were you not, that you were safe enough and it could be passed off as a left-wing caucus?

"A. Naturally.

"Q. Did you feel safe after the meeting was held also?

"A. Naturally.

"Q. Then it must have been a fact that everyone who would have been in a left-wing caucus would also have been invited to this meeting, isn't that correct?

"A. No. I just stated—

"Q. Wouldn't this be true: If you should have this meeting as a left wing caucus and there were some ones who would have been invited to a left-wing caucus who weren't invited to this meeting, you still would not convince him that it was a left-wing caucus meeting?

"A. I still don't get your question.

"Q. You say you are convinced this could have been called a left-wing caucus. You state that if there would have been criticism afterward in the convention you state that

stated that there were 25 or 30 people present, including King and Bridges. The purpose of this meeting was to draw up a slate of candidates. Engstrom was asked whether he would support the party line if they would support him for president. He said he was given to understand that he would not receive the support of this group if he refused to support the party line. Engstrom again replied that he would support whatever policy that in his judgment would make for the best interests of the water front.

There is no doubt but that Engstrom received the support of Bridges and King and their associates for the presidency at this convention. He failed, however, to be elected.

E. ENGSTROM ON THE MAGNOLIA BLUFF MEETING

Engstrom also testified that he attended one Communist fraction meeting in Seattle with Bridges. This meeting occurred in the latter part of 1936 following a public address given by Bridges. Engstrom believed that this meeting occurred at Howard Costigan's home and that among those present were Costigan,⁶⁸ Rapport, Harry Jackson, and Bridges. He had no memory of what subjects were discussed at this meeting. Since this is undoubtedly the meeting to which four other Government witnesses, John Davis and Gordon Caster and their wives, testified, consideration of this aspect of Engstrom's testimony will be deferred until the testimony of these witnesses is analyzed.

F. ENGSTROM'S LATER CONNECTIONS WITH THE MARITIME FEDERATION

Engstrom was a delegate again in 1937 to the Maritime Federation Convention that was held that year in Portland. In this connection he testified to no particular contacts with Bridges. This time Henry Schmidt asked him to his room. He found John Shoemaker and Mr. Ross⁶⁹ there, an attorney from Portland. Again he received the support of the Bridges' group, and this time he was elected.⁷⁰

Engstrom was reelected president of the federation in 1938. Nothing about this convention was, however, linked up with the issues in this proceeding. Engstrom resigned from the presidency in April of 1939. According to him, difficulties within his organization and his ill health prompted the resignation.

G. ENGSTROM'S ASSOCIATIONS WITH FERGUSON

Engstrom is a friend and associate of J. E. Ferguson, formerly of the Marine Firemen.⁷¹ They lived next to each other and frequently

⁶⁸ You could say this was not a Communist Party meeting, that it was a left-wing caucus. I say, in order to say that you must have been able to show that everyone who was invited to this meeting could have been invited to a left-wing caucus. I wasn't invited and I would have been invited if it had been a left-wing caucus.

⁶⁹ A. Not necessarily.

⁷⁰ Q. Why not?
A. Because there is a question that when all of the left-wing members are not asked to appear at a caucus, they might just designate certain ones."

⁷¹ Costigan was the secretary of the Washington Commonwealth Federation.
There is no evidence to indicate who Ross was. There is a Harry Gross, who was an attorney in Portland and acted as a legal adviser to the Communist Party. There is also a Lawrence Ross, who was admittedly a Communist and associated with the Western Workers.

⁷² Engstrom stated that he also received great support from a more moderate group because they did not believe that he was a Communist.

⁷³ Ferguson was expelled from the Marine Firemen in about 1937. Sometime ago Ferguson was set upon by a gang of thugs and severely beaten up. Ferguson was said not to have made any identification of these thugs or complained to the police.

discussed the Bridges case. The inference seems apparent that Ferguson had much to do with Engstrom testifying in this proceeding. He was present when Engstrom was first examined by the immigration officials and seems to have had something to do with Engstrom's final decision to testify in this proceeding.⁷²

H. ENGSTROM'S EXPULSION FROM THE UNION

A few other facts in regard to Engstrom are necessary in order to complete the picture. Engstrom was recently suspended from the firemen's union inasmuch as he had failed to pay his dues for more than a year. He had also failed to pay the latest strike assessment that his union had levied upon its members. He was fined \$150 by the union in that connection because of the conclusion that nonpayment of dues by an important official was a significant offense. Engstrom's ability to support himself has always seemed to have been a touch and go proposition. His method of doing so is by borrowing minor amounts from his friends.⁷³ Since his resignation from the federation this seems to have been his only visible means of support. Among his creditors are Ferguson, at least, two hotels, and numerous other individuals.

I. BRIDGES' CONTRADICTORY TESTIMONY

Consideration of Engstrom's testimony must take into consideration Bridges' account of these events. Bridges admitted that he supported Engstrom for president of the Maritime Federation in 1936. He stated that the longshoremen had to pick a sea-going candidate in order to have any chance of success. He said that his group selected Engstrom⁷⁴ because that would give them the support of the Marine Firemen despite the fact that they were aware of Engstrom's weaknesses and his general reputation in trade-union circles of being a "pie card."⁷⁵ Engstrom, he stated, had a hard time going along with them and at the same time keeping in with the other side—tactics that Engstrom admitted he pursued. He said that he was surprised to discover that Engstrom was a Communist, for he had never believed that Engstrom possessed the energy that in his opinion was necessary to be a Communist. According to Bridges the chief reasons, leading to Engstrom's resignation stemmed from his expensive habits and his debts, for Engstrom informed him that he was afraid to go to his own office for fear of his creditors.

J. KING ON ENGSTROM

King generally corroborated this account of Engstrom's candidacy at the 1936 Maritime Federation. He stated that in 1936 he was op-

⁷² At his first meeting with the immigration officials Engstrom testified that, although he discussed the Bridges situation with them for about an hour, he was then undecided as to whether he would testify. He finally agreed to do so a few days before he actually testified. During this interval he discussed the problem with Ferguson.

⁷³ Engstrom's testimony in regard to his creditors is neither forthright nor exact. It is plain that his tendency was to minimize both the amount and number of these obligations.

⁷⁴ Bridges admitted that there must have been several caucuses in which Engstrom's candidacy was discussed. He claimed that these caucuses were caucuses of the opposition or left-wing group. King was active in these conferences but Bridges stated that King always had his doubts in regard to Engstrom despite the fact that Engstrom was King's protégé.

⁷⁵ In trade-union parlance, a "pie card" is the name given to a man whose concern is primarily the trade-union job and the money in that job rather than the interests of the membership of the union.

posed to the Paddy Morris and Harry Lundeberg and was keeping his eye open for a candidate. Engstrom, whom he said he had taught "Unionism from the ground up" seemed a likely one and he succeeded in convincing his associates to support him.

K. EVALUATION OF ENGSTROM

It is not difficult to assess Engstrom's testimony. With the exception only of Miles G. Humphreys, whose tendency toward prevarication was almost pathological, Engstrom left a convincing impression that he was not telling the truth. Indeed, it is the examiner's conclusion that Engstrom never was a Communist. From the beginning he demonstrated complete ignorance of those Communist tactics and policies as to which the testimony of all the other Communists and the under-cover operators called to the stand was substantially uniform. We find Engstrom, for example, attending a fraction meeting—a closed Communist meeting—without either being a member of the Communist Party or having demonstrated any sympathetic viewpoint toward its aims. We find him never paying any dues when every Communist testified as to the significance that the party placed upon the payment of regular monthly dues, suspending those whose arrears continued for as much as 2 months.⁷⁸ Despite his patent ignorance of Communist theory, Engstrom had never attended any of the so-called schools conducted by the party in that district. His claimed attendance at fraction meetings subsequent to his alleged joining of the party was not only infrequent but vague in the extreme. As of the time in 1936 that he claimed to have gotten Communist support for his candidacy as president of the Maritime Federation, he admittedly had no knowledge of the party line.⁷⁹

What is most improbable was Engstrom's assertion that, despite his unwillingness to support the party line in 1936 and 1937, the Communist Party put their support behind him. Every other witness on Communist doctrine and tactics pointed to "democratic centralism" as one of the important tenets of Communism in action. This is the doctrine that is the essence of both fraction and top fraction meetings, the insistence that the action of the majority of the group binds the whole group after a decision is taken. It seems utterly improbable that the Communist fraction of the Maritime Federation would have agreed to support Engstrom when he again and again refused to be bound by this principle.⁸⁰ Again Engstrom's own admission that he did not have the confidence of the party members because they did not believe that he was putting his whole-hearted support behind the party comports ill with his tale of their support of him for this important position. Indeed, the picture that Engstrom painted of himself as a

⁷⁸ For nonpayment of dues for 2 months the regulations of the party provided for suspension. If nonpayment continued for 2 further months, the defaulting member's name was stricken from the rolls.

⁷⁹ Compare the following: "A. At that particular time [the reference is to late 1936] I didn't know definitely what the Communist Party line was; although I had been informed what it was following, but I hadn't been definitely informed at that time what it was." At this time, late 1936, Engstrom was advocating affiliation with the C. I. O. Bridges was then advocating remaining with the A. F. of L., and Engstrom claimed that Stack told him that the latter was the party line.

⁸⁰ It may be supposed that the Communists concerned in this matter were willing to accept Engstrom, even though he would not agree to follow the party line, because he was the best candidate that they could hope to put across. But there is no hint of this nature in Engstrom's testimony. Instead, he gives the impression that his attitude was entirely satisfactory to the Communist group.

reformed member of the Communist Party was utterly unconvincing; the portrait as it emerged was instead one of a weak-willed, characterless individual from whose once promising hands the reins of leadership had slipped and who in desperation was now pursuing new hypocritical tactics in the hope that these might succor him from the loneliness of his failure and for a time again surround him once more with "friends."

11. JOHN R. DAVIS

A. INTRODUCTORY

John Ryan Davis is now working for the water department of King's County, Wash. He has been sailing in merchant ships since 1928. In 1933, for his bravery at sea in saving human life, he was awarded medals by the United States Government,⁷⁹ Lloyds, and by the Life Saving Beneficial Association of New York. In 1934 he joined the Sailors' Union of the Pacific, became a member of the negotiating committee⁸⁰ for Aberdeen in 1935, and business agent of his local union in Aberdeen. In the summer of 1935 Davis joined the Communist Party, remaining a member of the party, despite his disagreement with their views and tactics until February of 1937. In March of 1937, Davis and his newly married wife left Aberdeen for the East. Davis was arrested in Indiana on a warrant charging him with grand larceny. He was brought back to Washington for trial. Charged with leaving a shortage of \$1,500 in his accounts with his union, he was found guilty of grand larceny as charged. The jury recommended leniency and he was given a suspended sentence. Davis is now on probation and Government immigration officials contacted him through the probation officer. He was first unwilling to testify but stated that, after discussing the matter with his wife, he agreed to do so. Because of this incident Davis was expelled from his union.

B. DAVIS' ACCOUNT OF THE HAIGHT STREET MEETING

Davis met Bridges sometime toward the end of 1934 or the beginning of 1935. For a month or so prior to September 30, 1935, Davis was in San Francisco as a member of the negotiating committee for his union. He testified that during this time he went to two Communist fraction meetings at which Bridges was present. One of these occurred at 121 Haight Street, the headquarters of the Communist Party in San Francisco.⁸¹ He said that he was told to attend this meeting by either Dave Saunders or one Byers, both sailors whom he alleged were Communists.⁸² Though he had been to 121 Haight Street once or twice thereafter, he could recall very little about the features of the place save that it was a small hall. About 15 or 20 men were congregated there. Though he testified that all these men were Communists, Davis could not recall anybody who was there

⁷⁹ See act of June 20, 1874, sec. 7, 18 Stat. 125, 127.

⁸⁰ The contracts covering the unlicensed seagoing personnel and the shore workers expired on September 30, 1935. Prior to that negotiating committees were created for the various groups covered by these contracts consisting of two members from each port. They met for the most part in San Francisco.

⁸¹ Davis stated that he did not know that this was the headquarters of the Communist Party, but that he had the impression it was a Communist "hang-out."

⁸² Saunders was admittedly a Communist.

except Bridges;⁸³ nor could he remember who the chairman of the meeting was, though he believed that Bridges was not the chairman. Though he stated that Communist fraction meetings were called by the authority of the unit organizer in the district, he could not recall the name of the unit organizer. His testimony as to the subject-matter of the discussion is equally vague—"different water-front questions" upon which no decisions seemed to have been made.⁸⁴

C. DAVIS' ACCOUNT OF THE CLAY STREET MEETING

A second meeting of this character to whose occurrence Davis testified took place in Bridges' office on Clay Street.⁸⁵ Davis' testimony with reference to this meeting is even more vague. On direct examination he stated this was a Communist "caucus" and that Dave Saunders, Byers, and Bridges' secretary, Norma Perry, were among those present. The others he did not know by name but he was certain that they were all Communists. "Just discussed maritime questions" was his total contribution to the question of what occurred at the meeting. On cross-examination Davis stated that some member of the Communist Party had suggested to him that he should go and talk to Bridges before going back to Seattle. He did so, found Bridges at his Clay Street offices, and two or three longshoremen and two or three sailors with him. "The caucus" then began, Davis said. As to the subject of the discussion, the following is Davis' testimony:

Q. The subject of the discussion was what?

A. Well, I think we discussed my going back to Seattle. I think I stayed there a few minutes, or something like that, at the time.

⁸³The following is Davis' testimony on this point on direct examination:

"A. One was held at Haight Street; I don't know the number.

"Q. And at this particular meeting, held on Haight Street, who was present?

"A. Several sailors and longshoremen.

"Q. Were the persons present members of the Communist Party?

"A. Yes.

"Q. And Harry Bridges was there?

"A. Yes, sir."

Davis' testimony on cross-examination was no more illuminating:

"Q. Did you recognize the sailors standing at the door when you got there?

"A. Yes.

"Q. Who were they?

"A. I think a fellow by the name of Usinger; I think that was the fellow I met at the door.

"Q. Who was he?

"A. He was a member of the Sailors' Union.

"Q. Anybody else?

"A. There were other sailors in there, but I don't remember their names now.

"Q. All right. You and the sailors went in this room?

"A. Yes.

"Q. How many sailors were there?

"A. Probably five or six sailors anyway.

"Q. When you got into the room was there anybody there?

"A. Yes; there were people in there.

"Q. How many?

"A. I don't recall how many there were when I arrived, but when the meeting was under way there were about 15 or 20 there.

"Q. Did you recognize any of them, other than these sailors?

"A. Yes.

"Q. Can you remember who they were?

"A. Harry Bridges.

"Q. Anybody else?

"A. Not offhand.

* * * * *

"Q. Were all of those at the meeting Communists?

"A. To my knowledge; yes.

"Q. Well, what is your knowledge on it?

"A. What I was told, that it was to be a Communist meeting."

⁸⁴Bridges testified that he attended no such meetings at 121 Haight Street.

⁸⁵Bridges testified that it was entirely possible for him to have conferred with Davis about this time in his offices at Clay Street, but he stated that he had no recollection of seeing him there.

Q. Is that all you can remember about the meeting?

A. That's all.⁵⁷

Davis could remember the names of only Saunders, Byers, and Norma Perry of the 10 or 12 he claimed were present but was certain that they were all Communists.

D. OTHER ITEMS OF DAVIS' TESTIMONY

Three other items of Davis' testimony in this connection are also of interest. Davis said that Bridges asked him to use his influence to get James Engstrom to join the Communist Party sometime in 1935, but that he was not successful in doing so. He also said that Bridges asked him in late 1936 or early 1937 to try and get Lundberg to follow the policies of the Communist Party.⁵⁸ Davis, however, testified that in April of 1936 he had a falling out with Lundeberg when Lundeberg found out that he was a Communist. Their relationship ceased to be a friendly one and the fact that he and Lundeberg were opposed to each other was generally known to the membership. Davis also said that Bridges once reprimanded him for not accepting the resignation of one George Larson, who was the secretary-treasurer of the Sailors' Union of the Pacific, and thereby make an opening for a Communist.⁵⁹

E. DAVIS ON THE MAGNOLIA BLUFF MEETING

Davis was another of the Government witnesses who testified to attending the Communist meeting on Magnolia Bluff in Seattle following the mass meeting at which Bridges spoke late in 1936. Since Engstrom, Davis, Castor, Mrs. Davis, and Mrs. Castor also gave evidence in connection with this meeting it is highly important carefully to analyze Davis' testimony in this connection. This meeting, Davis said, ~~was a top fraction meeting as distinguished from a mere fraction meeting.~~ About 20 people were present, all of whom Davis said he knew. On direct examination Davis stated that besides himself and Bridges, he recalled six other people being present.⁶⁰ They were Matt Meehan, Bruce Hannon, Gordon Castor, Ernie Fox, Phil Pott, and Pilcher.⁶¹ At this meeting, which began about 11 p. m. and lasted for about an hour and a half, they discussed the maritime program, the lumber industry, and sending some Communists back with Davis to Aberdeen to oppose Lundberg in the Sailors' Union of the Pacific. On cross-examination he added two more names to this list, those of Harry Jackson and Morris Rapport, both well-known Communists, and said that he believed that he had been asked to come by Jackson.

⁵⁷ Later Davis added that it was suggested to him, by someone other than Bridges, that he should carry out the Communist policy when he went back to Seattle, but, when asked what any of these policies were, said that he could not remember any of them.

⁵⁸ Bridges stated that he might very well have suggested to Davis that he try and get Lundberg to go along with his policies. Differences between Lundberg and Bridges started in the neighborhood of October of 1935.

⁵⁹ Bridges recalled this incident. He stated that Larson was then an employers' agent and is now openly working for the employers. Larson tendered his resignation but Davis refused to accept it. Bridges turned on Davis for this action and asked him whether he was working for the union, "or, stringing along with Larson." When Larson later resigned, his place was taken by Lundberg.

⁶⁰ Davis could not remember whether Engstrom or Cortigan had been present.

⁶¹ Pilcher was a longshoreman from Everett. Pott a longshoreman from Seattle. Fox a member of the Sailors' Union of the Pacific from Seattle. Hannon and Castor were both witnesses in this proceeding.

He said Jackson called the meeting to order and then the floor was thrown open to discussion. He remembered also that coffee was served at this meeting.

12. THE MAGNOLIA BLUFF MEETING

A. GORDON C. CASTOR

The testimony of two witnesses with reference to the Magnolia Bluff meeting has already been recounted. Gordon C. Castor was the third witness to testify to the same meeting. He is a man of 61 years of age. He joined the Communist Party in 1936. In 1937 the local union to which he belonged became affiliated with the International Woodworkers of America, which, in turn, is affiliated with the C. I. O. Castor was an organizer for the International Woodworkers. He stated that in late 1937 he was requested by Rapport to solicit members for the Communist Party, refused to do so, and as a consequence lost his job as organizer on January 1, 1938. He also intimated that the loss of that job was also occasioned by his ceasing to be a member of the Communist Party. He claimed at the present time to be a member of the Shingle Weavers Union, which is affiliated with the A. F. of L.

Castor testified that in November of 1936 he attended a top fraction meeting in a house on Magnolia Bluff, in Seattle, following a mass meeting at which Bridges had spoken. Some 15 or 16 persons were present. Castor recalled Bridges, Rapport, Jackson, John Davis, and Pilcher as being all those that he could recall as being present. He was practically certain that Engstrom was not present⁶¹ and he also believed that Costigan was not there. The subjects discussed at this meeting related to the coming elections in the maritime unions and cooperation between the maritime groups and the lumber workers.⁶²

A 1938 Communist membership book in the name of G. W. Cartier, which Castor said was his party name, was introduced in evidence. This book does not recite when it was issued. It contains, however, a 10-cent dues stamp for January of 1938. The serial number of this book is 81481, that of Mrs. Castor's book 81482.⁶³ According to the regulations of the Communist Party, which are printed in these books, members earning from \$112.66 to \$160 are required to pay \$1 monthly and members earning up to \$47 a month are required to pay 10 cents. Castor earned \$150 a month as organizer for the International Woodworkers up until January 1, 1938. Thereafter for a while he ceased to earn anything.

Castor had testified that his last payment of dues was made in December of 1937,⁶⁴ and that he had lost his position as organizer be-

⁶¹ Castor was of the opinion that the meeting to which Engstrom testified was a different meeting than the one he attended.

⁶² Despite the fact that Castor stated that it was the practice at top fraction meetings "to reach concrete particular decisions," he could not recall any decisions that came out of this meeting. He said that "the only discussion I remember clearly, and conclusions, were just general cooperation on any and all points that we could, between the lumber workers and the maritime unions."

⁶³ M. a. Castor's book was issued on January 18, 1938.

⁶⁴ Q. [By counsel for the Government.] When was your membership in the Communist Party terminated?

⁶⁵ A. I believe the last dues I paid, when this receipt was issued, in December of 1937, I paid no dues afterwards.

⁶⁶ A receipt was introduced showing a dues payment by G. W. Cartier on October 25, 1937, of \$10, stated to be for seven regular and three I. S. payments at \$1 each. This would correspond with the fact that Castor at that time was paying dues at the rate of \$1

cause he had ceased to be a member of the Communist Party. This book seemed to contradict him on both these points, since the 10-cent dues payment seemed to indicate that he had made a dues payment when he was earning under \$47 a month and also that after January 1, 1938, he was still a member in good standing of the Communist Party. Castor's explanation with reference to these two matters was as follows:

Q. (By the Examiner.) And as I look at this membership book of yours, I find a 10-cent payment made for January of 1938, which would correspond with the fact that after January 1, 1938, you were unemployed, and therefore your dues, according to this schedule here, would be 10 cents a month.

A. Well, now, I testified that I quit the organization at the expiration of 1937, but since you brought that to my attention, everybody is told to change their books before the first of the year, after a certain period, and I believe now that I did pay that 10 cents in cash when that stamp was put in there. As a matter of fact, that was when I got the book.

Q. So that you were a member in good standing of the Communist Party in January of 1938?

A. I was; yes.

Q. Well, then, would you explain just how you inferred that you lost your position as business agent, as the result of ceasing to be a member of the Communist Party?

A. Well, it is rather devious.

Q. Because that, you see, occurred prior to the time you ceased to be a member of the Communist Party.

A. In order to ease a fellow out, why they just keep telling you, "Oh, it will only be a short time and we will put you back to work," just so that you won't say—you cannot say, "Well, look, I am going to blow up and tell what I know, because they fired me."

They just try to ease you out in that manner.

When they want to get rid of anybody in the party they start ignoring them until they get disgusted and quit, in some cases. In other cases they just simply expel them from the party.

In my case I drew that inference for this reason: I drew the inference that I lost my job for the reason that my record as an organizer, not only in the I. W. A., but when I worked for the Brotherhood of Carpenters and Joiners, was first-class. In other words, it was efficient work and I was the oldest man on their pay roll, helped form the organization. I lost my position with the carpenters because of the fact that I joined the Communist Party. Therefore, I couldn't see any reason why I should be let out unless everybody was let out, and there was no further people kept on the pay roll in that kind of a capacity; because my record was so good, that I didn't see how it could possibly be done unless it was dug through the fact that I wouldn't follow the orders issued to me.

So I drew that inference. Now, then, that is not to say that it is absolutely true; it is just an inference that I drew, as I believe I testified to.

B. MRS. CASTOR

I. ON DIRECT EXAMINATION

Mrs. Castor has been married to Gordon Castor since 1917. She was first called to the stand on rebuttal by the Government. On direct examination she stated that she joined the Communist Party in October of 1937 and terminated her membership on January 13, 1938.⁵⁵

⁵⁵ Mrs. Castor has been married to Gordon Castor since 1917. She was first called to the stand on rebuttal by the Government. On direct examination she stated that she joined the Communist Party in October of 1937 and terminated her membership on January 13, 1938. The I. S. dues are explained by the following regulation: "As an expression of our International Solidarity with the Communist Parties of other countries that need our aid, every member is to pay once every 4 months (April, August, December) an amount equal to one month's dues." A second receipt claimed to be for dues paid by Castor of \$5 was introduced in evidence. This receipt is dated December 20, 1937. The two receipts together would complete the total dues requirements of Castor for the year based upon a monthly wage of \$150.

⁵⁶ A 1938 membership book in the Communist Party in the name of Lily Walter, which Mrs. Castor said was her, was introduced in evidence. It contains one 10-cent dues stamp for January. Mrs. Castor stated that Lily Walter was her Communist name, the Walter being her maiden name. Her maiden name is correctly spelled "Wolter."

She said that she and Castor attended a mass meeting at the Civic Auditorium in Seattle in November of 1936. After the meeting she, Castor, Harold Pritchett,⁹⁶ and Harry Pilcher were standing around, when Harry Jackson came over and notified Castor that there was going to be a top fraction meeting. Castor spoke up and said: "My wife is with me." Jackson replied: "That is all right; she can go, too." They drove out to a house on Magnolia Bluff, where Castor went into the living room and she went into the breakfast nook because she was not allowed to go into the living room. In the breakfast nook she sat with the lady of the house whose name she could not recall. Later two other women came in, to whom she said she was never introduced. The four of them played cards. After about an hour she left with her husband, Pritchett, and Pilcher.

II. ON CROSS-EXAMINATION

The cross-examination of Mrs. Castor involved her in a series of amazing contradictions and impossible situations. She testified that she had first learned that her husband was a member of the Communist Party at the time of this mass meeting and because of the reply that her husband gave to Jackson's invitation. A moment thereafter, however, she stated that she knew Harry Jackson was a Communist because she had sat in Communist meetings with him, and she placed these meetings before the mass meeting, or more than a year prior to the time that she joined the Communist Party. Asked how she was enabled to attend these Communist meetings, at which she then admitted that everyone present other than herself was a Communist, she stated that she went with her husband. Yet upon her own admission, it was only subsequent to that time that she learned her husband was a Communist. Further efforts at prevarication took place which simply involved Mrs. Castor more deeply in the pit that she had dug for herself.

Mrs. Castor's account of the circumstances under which Government official Boyd made contact with Castor also differs considerably from Castor's own account. Her testimony on the reasons that led her first to join the Communist Party and then within a few months to separate herself from it is both contradictory and meaningless.⁹⁷ She

⁹⁶ Harold Pritchett is the president of the International Woodworkers of America. He is an outstanding C. I. O. official in the Seattle region. He has been alleged to be a Communist. Mrs. Castor is the only witness who placed Pritchett at this meeting.

"Compare the following:

"Q. Why did you join the Communist Party?

"A. Well, at the time I joined it, I thought it was something I wanted to belong to.

"Q. Why did you think it was something you wanted to belong to? What did you think it was?

"A. Well, I was interested in organizational work, labor work, ladies' auxiliary, and I thought it could help me. But later I found out it was something I didn't want to belong to at all.

"Q. At the time you joined it, did you know anything about the program and policy of the Communist Party?

"A. Some.

"Q. Did you agree with it at that time?

"A. Well, in a way, and in a way, no.

"Q. In what respect did you disagree with it when you joined?

"A. I can't answer that one.

"Q. You must have meant something when you said that, when you said that you disagreed in some respects, or you agreed in a way and in another way didn't. Think, and try to tell me what it was that you disagreed with them about.

"A. Well, I disagreed with their principles and their tactics they used.

"Q. Then why did you join the Communist Party?

"A. Well, as I said before, I thought it was something I wanted to belong to, and I changed my mind afterward.

stated that she became dissatisfied with the Communist Party before her husband did, but also said that she never discussed her dissatisfaction with her husband nor did she know when he quit the party because he never discussed the matter with her.²⁸ Castor's own testimony was to the effect that he became dissatisfied with the Communist Party some 6 or 7 months before he quit and that he was quite open in manifesting this dissatisfaction.²⁹ This would put the date of his

"Q. Even though you disagreed with their principles, you thought it was something you wanted to join and belong to, is that correct?

"A. I can't answer that.

"Q. I beg your pardon?

"A. I can't answer that.

"Q. You won't answer it? Can you tell me why you won't answer?

"A. Well, I don't know.

"Q. Is it that you don't know the answer, or you are unwilling to give an answer, Mrs. Castor?

"A. I just don't know how to answer that question. • • •

"Q. Then what was the reason why you joined it, when you didn't agree with its principles?

"A. I didn't say I didn't agree with its principles.

"Q. What did you say?

"A. After I joined the party, after I found out it was something I didn't want to belong to.

"Q. Well, I understood you to say, Mrs. Castor—you correct me if I am wrong—that at the time you joined, you did not agree with some of its principles. Did I correctly understand you?

"A. No; I joined it. When I joined the party I thought it would help me in my organizational work, ladies auxiliary work.

"Q. Well, let us forget about whether it would help you. I want to know whether you agreed with all the principles of the Communist Party at the time you joined it.

"A. Yes; I did.

"Q. All right. Did you later disagree with some of the principles of the Communist Party?

"A. Yes.

"Q. With which principles?

"A. Their methods and their tactics they use in the meetings, in union meetings.

"Q. When did you make up your mind that you disagreed with the Communist Party?

"A. After I had attended a few meetings.

"Q. Well, about when? Give me the dates, please.

"A. The last Portland convention.

"Q. When was that?

"A. In the fall, in November of 1937.

"Q. In other words, only a month after you joined?

"A. Yes.

"Q. You indicated that you joined the party because you thought it would help you in the work you were doing. What did you mean by that?

"A. Well, working along different lines, auxiliary work—oh, for different things the auxiliary done, like P. T. A., recreation rooms, and play fields for children; the like of that. That is the work I was interested in.

"Q. Well, I can see how the auxiliary would help you, but why would it help you to join the Communist Party?

"A. Well, I don't know.

"Q. What is the answer, please?

"A. I said I didn't know.

"Q. Well, you are the one that brought up the question, Mrs. Castor; you are the one that suggested that you thought that joining the Communist Party would help you, so I am just pursuing it farther and asking you what you had in your mind when you said that.

"A. Well, I thought it would work along the same lines with me, off some things.

"Q. Is that as definite as you can be on it?

"A. Yes."

"Q. Are you sure he didn't quit before you did?

"A. He did not.

"Q. You are sure of that?

"A. Not to my knowledge.

"Q. Well, are you sure of it or not?

"A. Well, as I said, I don't know.

"Q. Do you have anything which justified you in saying he didn't quit before you did? Do you have any information of your own knowledge from which you can say he did not quit before you did?

"A. No; I don't. He quit of his own accord and didn't ask me whether he could quit or not.

"Q. I am concerned with whether you know when he quit.

"A. I don't know."

"Q. When did you form the conclusion that the Communist Party advocated the use of force and violence to overthrow the Government of the United States?

"A. To make a definite statement of the particular date that I made that conclusion would be impossible. After attending meetings, hearing the political theory and set-up discussed, I was forced to come to the conclusion that they didn't care what methods they used so long as they got control.

dissatisfaction before the date when Mrs. Castor joined the party. Her voluminous protestations that in all these matters she was telling the truth obviously cannot convince.

Mrs. Castor, however, confirmed Sweeney's statement that Castor had left his job about a week before he testified. She added that he was not working at the present time.

C. MRS. DAVIS

Mrs. Davis was married to John Davis on December 1, 1936. She was also a rebuttal witness. She stated that she had become a member of the Communist Party under the name of Velma Phillips in January of 1937. How long she remained a member is somewhat indefinite. She stated that she terminated her membership "around in January of 1937," but also that she went to two or three Communist meetings after she joined and that she dropped out just about a month or two after she joined. The Phillips Communist membership book recites that it was issued on January 11, 1937. It contains one 10-cent initiation stamp and no dues stamps.

She said that in November of 1936 she and John Davis were sitting in a cafe in Aberdeen,¹ when Heinie Huff, a Communist, came up to them and told John Davis that there was going to be a mass meeting in Seattle and a top fraction meeting after the mass meeting. He urged Davis to be there because he said that Bridges was going to be there.

Mrs. Davis said that she and Davis drove up to Seattle and attended the meeting in the Civic Auditorium. After the meeting Davis went to the top fraction meeting alone because she was not allowed to go. She went to stay with friends and saw nothing more of Davis that night.

In attempting to place the date of this mass meeting Mrs. Davis "couldn't say" how long after the mass meeting she was married and eventually hazarded a week as her best guess. Record evidence establishes that this mass meeting occurred either on Monday, November 30, 1936, or on Monday, December 7, 1936. Mrs. Davis thus was married either the night after the meeting or 6 days previously. The night before a wedding one would believe would be an important date in a

"Q. When did you first form that opinion generally?

"A. I formed it in about, I would say, June or July of 1937.

"Q. Will you explain why you didn't leave the Communist Party immediately after you formed that opinion?

"A. Yes, sir. I didn't leave it for the reason that I thought perhaps I would be able to combat some of their activity that I did not approve of in the labor unions.

"Q. You remained in the Communist Party for 6 months, for the purpose of opposing or interfering with their activities in the trade-unions, is that correct?

"A. Insofar as it dictated the policy in the labor unions:

"Q. And I suppose when you finally left the party it was because you felt that you could no longer interfere with their activities in the trade unions, is that correct?

"A. Well, I had intended to leave the party for quite some time, and when I was removed from my position as organizer—as I stated a few minutes ago, I am too old to work in that industry again and, therefore, would not be able to come in contact with the workers in that industry, so I felt that usefulness had lapsed, so I just simply dropped it.

"Q. Were you known openly as a member of the Communist Party before you dropped out?

"A. Yes, by a great many people, because I believed this: If an idea merits the support of the workers, that it does not have to be concealed, so I did not conceal to any great extent my affiliation with the Communist Party, and I will add just a little bit further, that I lost my job as international organizer with the Brotherhood of Carpenters and Joiners through joining the Communist Party."

¹ Aberdeen is about 160 miles from Seattle.

young lady's mind; also a young wife might well remember a night 6 days after her wedding when her husband failed to come home, especially when either of these events occurred not in her home town but in a large city to which the two of them had journeyed.

D. HENRY M. SWEENEY

Henry M. Sweeney was called by counsel for the alien to rebut the testimony of Castor. Sweeney lives in Raymond, Wash., and is employed at the Anbell Shingle Mills. He is a member of the local shingle weavers union—an A. F. of L. union—and the steward at the mill. As steward he is the union's representative with regard to grievances of employees. The mill operates under a trade agreement which provided that employees within 30 days had to become members of the shingle weavers union.

Sweeney said that he met Castor² in the first part of June 1939 when he first came to work. Sweeney asked him for his union card and Castor replied that he had no shingle weavers' card, but belonged to the sawmill and timber workers in Spokane, a union affiliated with the C. I. O. Castor then said that he would arrange to get a transfer to the Gray's Harbor local and then to the Raymond local.³ Later Castor told Sweeney that he was arranging for this transfer. No further discussion was had on this subject during the month or so that Castor worked at the mill.

Sweeney also stated that on the Saturday evening preceding the week on which Castor testified in this proceeding⁴ Castor said to him that the immigration officers were after him for the second time and that they wanted him to come to San Francisco to testify against Bridges. Castor, according to Sweeney, added: "If I do I will never have to work in a shingle mill any more." Sweeney said that at the time he had the impression that Castor was "loose in the head." Castor did not appear for work the following Monday⁵ and Sweeney has not seen him since.

Sweeney added that he had heard that Castor had substantially made the same statement to four other men at the mill. None of these four men were called.⁶

Sweeney said he could not elaborate upon the statement of Castor that he quoted,⁷ nor would he be swerved from that statement.⁸

² Sweeney called him George Castor in stead of Gordon Castor.

³ The purpose of this maneuver seems to have been to save the \$6 that Castor would have been required to pay to join the Raymond local directly.

⁴ Castor testified on Thursday, July 27, 1939.

⁵ Castor made no mention of this fact but Mrs. Castor admitted it.

⁶ Sweeney testified that he personally paid the expenses of one witness—not one of these four men—to come down to San Francisco to testify in this proceeding. This witness was never called by counsel for the alien.

⁷ Q. Did he say that money would be paid to him at some time?

A. He didn't say no such thing.

⁸ Q. Did he say that he would get any money at all?

A. He did not. He didn't say anything about money.

⁹ Q. He just made the one observation that he was going to be able to retire?

A. He said he wouldn't have to work in a shingle mill any more."

¹⁰ Q. [By counsel for the Government.] Do you know whether he said, made his statement in this language: "If I do testify I will never be able to work in a shingle mill again?"

A. No. That wasn't the statement.

¹¹ Q. Did he say, "I will never have to work in a shingle mill again?"

A. He said, "I will never have to work in a shingle mill again."

Compare the question of Government counsel quoted above with the later statement made by Mrs. Castor:

"Q. [By counsel for the alien.] What was the discussion he (counsel for the Government) had with your husband about testifying?"

A. He wanted him to come down here and testify in the case.

Sweeney stated that after Castor had testified he reported these facts to the president of the longshoremen's union in Raymond. He was sent up to see Bridges, who happened to be in Seattle, and was later sent to San Francisco at the expense of the local longshoremen's union.

E. BRUCE HANNON

Bruce Hannon is the individual at whose house the Magnolia Bluff meeting took place. He was then an officer of the local longshoremen's union in Seattle and is now living in San Francisco as the secretary of the Maritime Federation. Hannon said that he had been intimate with Bridges since 1935 and that when Bridges during the maritime strike of 1936 came to Seattle to address a mass meeting, he and another union man, Henry Geary, went to the train to meet him. Hannon took him to his hotel, then to a radio station, then to dinner and then to the mass meeting. After the mass meeting he took Bridges to his home to a purely social gathering, where a number of union officials and his neighbors dropped in. They sat about chatting, being served coffee and doughnuts by his mother, while some of the women played cards in the dining room. About midnight the gathering broke up.

Hannon's memory as to the persons that were present is vague. He knew his mother and his two brothers were present. He thought that Engstrom might very well have been there since he was then secretary of the Northwest strike committee. He believed that Matt Meehan was there, could not recall whether John Davis was there, knew that Henry Geary was there, and said that he had never to his knowledge met Castor. He was definite that neither Rapport nor Jackson were there, and said that Pilcher, Roth, and Fox might have been there but did not think that Pritchett had been present. Cross-examination added little to this testimony.

F. BRIDGES' ACCOUNT OF THE MEETING

Bridges' story of the Magnolia Bluff meeting is more detailed than that of Hannon. Bridges remembered the meeting also as a social gathering at Hannon's house following the mass meeting. Among those present he remembered Hannon, Meehan, Costigan, John Davis, and Engstrom. Bridges could not remember ever having seen Castor. He was positive that Rapport was not there because he had a distinct recollection of first meeting Rapport in April of 1937, shortly after Bridges became west-coast C. I. O. director. He saw Rapport in connection with his activities in the organization of Labor's Non-Partisan League, which he called "the political arm of the C. I. O."

"Q. What did your husband say?

"A. He said 'No.'

"Q. Did he give any reasons?

"A. Yes.

"Q. What reasons?

"A. He said if he came down here and testified in this case, that he wouldn't be able to work in the shingle mills again."

"A. Usually, especially during a time of a strike like that, it is quite the custom, when someone like Harry Bridges comes to town, or some other trade-union leader comes to town, when he goes out to some of the fellows' houses, people drift around out there. They would drift out to my place, for instance, and my mother always serves something to them. It is just the usual and customary thing."

G. CONCLUSIONS ON THE MAGNOLIA BLUFF MEETING.

There seems little question but that Engstrom's meeting at "Costigan's house" was the Magnolia Bluff meeting. Engstrom's reference to a meeting at about this time following a mass meeting at which Bridges spoke, Bridges' testimony that Engstrom was there, Hannon's impression that he was there, all tend to confirm that conclusion.

The issue presented, however, is whether this gathering was a Communist meeting. With reference to one of the witnesses that testified to this fact, Mrs. Castor, one can be sure that she lied in many major particulars, particularly those dealing with her relationship to the Communist Party, to Jackson and to her husband's Communist affiliations. She, however, was produced to corroborate Castor's testimony. That she and Castor talked over her corroborating testimony before she took the stand is certain, for she admitted that Castor had supplied certain details that she had forgotten, that they had talked over his testimony, and that she had originally refused to testify until she had thought it over. If her testimony is false it almost necessarily follows that Castor's testimony is false.

Almost the same approach can be made to Davis' testimony through Mrs. Davis. In addition, Davis' own testimony is intrinsically weak. Its vagueness gave the impression of a subdued sense of stress that is difficult to appreciate apart from the visual impression created by his demeanor on the stand. Even the record as it stands discloses a man testifying to the minimum details necessary for the purpose, never going beyond to volunteer one item that would fill in with a background of realism the bare bones of his recital. His subsequent addition of Jackson and Rapport to the persons present at this meeting, two of the most prominent Communists in that region, at the time sounded suspicious. It appears in the same light as one reviews the whole of his testimony.

There are other matters that fail to ring true in this recital. According to Mrs. Davis the top fraction meeting was planned long in advance for Davis was informed of it beforehand by Huff in Aberdeen. According to Mrs. Castor, Castor received a casual invitation to it as he was standing about after the mass meeting. Neither Davis nor Castor testified themselves as to the source of their invitations, Castor only saying that he believed Jackson had asked him to come. Castor particularly, it would seem, would have had some occasion to comment on two important byproducts of that invitation—byproducts to which Mrs. Castor testified. The first of these is that that casual invitation was the first notice that Mrs. Castor had that her husband was a Communist; the second is that Castor was permitted to take Mrs. Castor, a non-Communist, with him to a Communist top fraction meeting and leave her playing cards in the next room.

There is again Davis' and Castor's failure to place Pritchett at this meeting, particularly Castor's failure for Pritchett and was one of the leading union officials in his line of business—woodworking. Other matters, too, disturb. There is the holding of this meeting at Hannon's house and there is no evidence, other than Davis' allega-

tion, that Hannon was a Communist.¹⁰ He himself testified to the contrary. Indeed, if one eliminates Jackson and Rapport from the meeting, there is no definite proof that any of the others were Communists, with the exception of Davis and Castor.¹¹ Again, without even considering Sweeney's testimony, Castor originally testified wrongly in connection with his termination of his membership in the Communist Party, a point of some significance in considering his general credibility.

Contrariwise, Hannon's explanation of the meeting is natural and normal. For a friend to invite Bridges after the mass meeting to his home for coffee and doughnuts and to gather about a group of trade-union men to meet him personally and to chat casually about the strike and the progress of the trade-union movement, is the type of thing that constantly occurs in the lives of those who have occasion to plead their causes in public. That among this group Communists might be present is entirely plausible but, considering the established falseness of so much of the testimony presented in this connection, no conviction attends the attempt to transform this social gathering into a top fraction meeting.

13. HARRY R. BRIDGES

A. INTRODUCTORY

Much of Bridges' testimony has already been adverted to in connection with the consideration of the testimony of other witnesses. There are other aspects of that testimony that are important, however. His own testimony relates, for example, to many matters that must be considered independently of anything else from the standpoint of whether they furnish a basis for concluding that there was that "affiliation" between him and the Communist Party that the statute envisages.

Harry Renton Bridges was an active trade-unionist before he left Australia, where in 1920 trade-unionism both on the organizational and political side was in a more advanced stage than in the United States. There is slight doubt but that Bridges' present conceptions as to the place of trade-unionism derive considerably from his Australian experiences and upbringing. In 1921 Bridges was in New Orleans when the seamen's strike occurred. He was arrested there for loitering, held in the police station a few hours, and then released. At that time he also became a member of the I. W. W., but within a few months termi-

¹⁰ Of great interest in this connection is Castor's testimony in which he has no recollection of the place where this meeting was held other than the fact that it was on Magnolia Bluff. Compare with this Mrs. Castor's testimony, given after Bridges had identified the meeting as having occurred at Hannon's house:

"Q. Do you know whose house it was that the meeting was held at?

"A. I didn't at that time, but I do since.

"Q. Who told you since?

"A. Who told me since?

"Q. Yes.

"A. Mr. Castor.

"Q. When did Mr. Castor tell you whose house this meeting was held at?

"A. When did he tell me?

"Q. Yes.

"A. Let's see—about a month ago.

"Q. Never before?

"A. No.

"Q. Did you ask at that time or did he volunteer it?

"A. We were talking about it.¹²

¹¹ Comment has already been made on Engstrom's claim to be a Communist.

nated his relationship with that organization because he disagreed with their views.¹²

B. THE 1934 MARITIME STRIKE

Little of significance to the issues in this proceeding occurred with reference to Bridges prior to 1933.¹³ He was then a longshoreman in San Francisco. He was active in establishing the International Longshoremen's Association in San Francisco as opposed to the allegedly company-controlled Longshoremen's Union of San Francisco. His activities in connection with the Equality Hall or Albion Hall group have already been detailed. These activities eventually wrested the control of the International Longshoremen's Association from Lee J. Holman and the other officials of that association. That group also largely formulated and pressed those policies that eventually brought about the 1934 maritime strike.

The evidence with reference to Bridges' associations with the Communist Party during the 1934 strike deserves retelling. Apart from Detrich's subsequent rationalization that the Albion Hall group was dominated by Communists, this record cannot be said to establish that the policies pursued by the longshoremen, the joint strike committee or the San Francisco Labor Council during the 1934 strike were Communist policies as such. Communists were undoubtedly to be found in the membership or on the executive boards of one or more of these organizations. That the general policies pursued had the support of these Communists and the officials of the Communist Party seems more than likely, for Communist policy tends to support, even agitate for, any industrial unrest.

"Q. Do you know anything about the aims and purposes of that organization at that time?

"A. Well, I knew at that time, and not to any great extent. I found out after I was in a short while. I know what they are now. I disagreed with them.

"Q. Would you tell us what you thought the aims were at the time you joined it, and what you know now about it?

"A. Well, their aims are syndicalistic, I think. They are more or less an anarchist group. In other words, they prate and carry on under a program of the extreme rank and file-ism; and all they succeed in doing is creating a lot of general disruption and bozing down the advance of labor generally under a cloak or a guise of democracy. I believe they are disruptive. I don't like their program. Instead of trying to explain it generally, I can give specific examples. We have, for example, in the Northwest still a lot of I. W. W.'s at the present time in the woods. They believe more in a program of direct action to settle every dispute instead of other types of action.

"Q. What do you mean by 'direct action'?

"A. Strikes. In other words, we believe in strikes, and we believe in direct action under the proper circumstances and at the proper time when it is the best thing to do. But there comes a time that you can go a little too far with direct action. The I. W. W. philosophy was never to sign an agreement, for example; never to arbitrate; never to mediate; never to consolidate. The reason that the I. W. W. was broken up was because they are a splendid fighting bunch up to a point. They gained many improvements and benefits for the people they represent, the workers generally, but they tried to carry on the same tactics and they didn't consolidate. They are absolutely opposed to any type of political action. The philosophy of the I. W. W. can generally be expressed that they are going to take over the means of production by economic measures. In other words, they propose that one of these days everybody will be organized into industrial trade unions without any political activity whatsoever; and that at the proper time all the trade-union workers will walk out of the factories and, I presume, in that way cause a collapse of the financial and general system, and that they will return and operate the factories themselves, and what not."

¹² In 1932 Bridges, Schmidt, and Shoemaker, and others started a mimeograph newspaper on labor matters for the water front called "The Waterfront Worker." A paper of that name had been run formerly by the Marine Workers Industrial Union and had been discontinued. Bridges and his group bought the mimeograph machine upon which the paper was printed from that union. The paper was in existence from 1932 to 1936. Also during that time a paper, the Maritime Worker, was issued by the Communist Party. No connection between these two was established.

Bridges' own testimony admits that at this time he sought for support in many quarters and found support among Communists. He encouraged seamen to join the Marine Workers' Industrial Union in which the Communist membership was stronger than in any other of the maritime groups. He welcomed the support given to the strikers by the Western Worker, the official organ of the Communist Party; was active in getting the strike committee to accept it as its paper; encouraged subscriptions¹⁴ to the paper; and also the giving of some financial aid to it through the method of advertising in the paper. He thus not only welcomed Communist aid, but protested against severance of this friendly relationship when the red-baiting cry of the other side made severance a wise policy for the maritime unions to pursue.

Some evidence was offered in the attempt to prove that Bridges associated with Communists at a secret meeting place they had at the Chateau Pierre, at 501 Baker Street, San Francisco. That evidence is analyzed in a separate appendix.¹⁵ It was not proffered as evidence to establish Bridges' attendance at Communist meetings at the Chateau Pierre; it was pressed to dispute his general veracity inasmuch as he had denied that he had ever been at the Chateau. As such it fails in that particular purpose.

C. ASSOCIATIONS WITH COMMUNIST OFFICIALS

There is no doubt but that Bridges had at that time, and has since, friends and associates who are Communists. At no time was he hesitant to admit these associations nor to deny that on occasion he had sought the help of the Communist Party, as he has sought the help of the Democratic and the Republican¹⁶ Parties, as allies in the industrial and political struggles in which his unions were involved. He sought Communist help specifically in connection with the United Labor Party ticket in 1935, in the King-Ramsay-Connally and the Modesto cases, and on other unnamed occasions. On some occasions he stated that he had tried to keep them from interfering in what he regarded as strictly trade-union matters.¹⁷

¹⁴ Bridges admitted that he had subscribed to both the Daily Worker and the Western Worker. He no longer personally subscribes to them, but his office subscribes to the Daily Worker, and Bridges admitted that he reads it.

¹⁵ See appendix VII.

¹⁶ Bridges admitted ruefully that his influence with the Republican Party was very slight.

¹⁷ Q. You said, I think, that on occasions you have called the officials of the Communist Party when you felt that they were intruding on the trade-union purposes?

A. Yes.

Q. Do you recall any particular occasion when you did that, or whom you called?
 A. I can recall a couple of things, which may seem small in relating them, but to me at the time they seemed large and important. I am separating now what I believe are trade-union issues, that is, separate and apart from political issues. I can give this example: We have certain regulations in our unions—in my own local union we have a rule to the effect that you cannot hold office for more than 2 years. Then you are automatically out of office at the end of 2 years. I found that the Communist Party members, or one of them, that I knew was a Communist Party member, was advocating that this rule be eliminated and the Constitution be amended to throw it out. I am for the rule. It was through me that it was put in there in the first place, and it is going to stay there if I can see that it is done. When I found out that at least one person that I knew was a Communist Party member advocating that it was not a fair or democratic rule—and it is a matter of opinion—I opposed it, and I notified the Communist Party that I didn't like it. That would be one example. Of course, I would say that, as far as the arguments that these fellows put up, they were somewhat logical and convincing.

D. REFUSAL TO DISCRIMINATE AGAINST COMMUNISTS

Bridges has also refused to adopt any policy whereby his unions would exclude or discriminate against any person upon the ground of membership in the Communist Party. Instead, he has actively sponsored a policy of nondiscrimination. The necessity for adoption of the policy of nondiscrimination arose, Bridges claimed, from employers' activities that charged every militant policy pursued by the unions was communistic. For that reason it was alleged that anti-red-baiting resolutions were commonly adopted by the various unions that Bridges influenced.¹⁵

Bridges offered no apologies for the Communists that were in his unions. He regarded them, in the main, as "militant and sincere" and as good union men. He admitted that undoubtedly both as union men and as Communists they might have supported him for official positions in the union, but denied that he had ever sought their support for office as Communists or the support of the Communist Party for such an end.

E. REFUSAL TO DENY COMMUNIST MEMBERSHIP

The same reason, Bridges claimed, might dictate his refusal on occasion to deny that he was a member of the Communist Party. He claimed that to deny an accusation of this nature, if hurled at him in some animated meeting, would tend too easily to divert the gathering from the issues that were under discussion to the issue of Communism.¹⁶ He denied, too, that he had ever admitted that he was a Communist, except perhaps facetiously. In other words, the type of remark which Howard claimed that Bridges uttered in San Pedro, he impliedly admitted could have been made by him.

F. VISITS TO COMMUNIST HEADQUARTERS

Bridges admitted that he had occasionally dropped in at the Communist headquarters when they were at 37 Grove Street, but that all he had done on those occasions was to purchase some pamphlets at the bookstore that they maintained in that building. He admitted also that he had been to their later headquarters at 121 Haight Street. The first occasion has been detailed in connection with the analysis of Detrich's testimony. The second was described as follows:

"Later on in 1934 [July] I specifically recall another meeting, and that was at the time of the riots on the water front, where there were some 200 or 300 people shot, gassed, and clubbed, and we were moving them to hospitals, and here and there. A lot of our people were at

¹⁵ Bridges stated that he had little fear that the policy of nondiscrimination would lead to Communist control of the unions. He believes their democratic methods of doing business would be an adequate bulwark against such infiltration.

¹⁶ "A. Well, I had to learn the hard way and I have appeared before many groups when such a question was asked. It was for the purpose of putting me on the griddle. You may take such groups that I generally believe, and recognize as anti-labor groups, such as the American Legion, for example. When you are asked a question like that, the follow up question, if you answer it, 'I am not a Communist,' then they propose, 'Why don't you do something about that? Why don't you organize a few squads to purge the Communists? Why don't you see that they are thrown out of the unions?' I don't believe in laying a basis for such follow-up questions like that, when you are not in a position to argue them and answer them at full length."

121 Haight Street, that being kind of a hospital. I guess, in picking people up off the sidewalk when they were laying there unconscious, they didn't stop to ask whether they were members of the I. L. D., or members of the Communist Party. They just got them in machines, or wagons, and got them up there.

"I think other members of the strike committee went to 121 Haight Street. There is a large room up there and there were some hundred people laying on the floor, generally pretty well beaten up or shot, and a lot of our fellows were among them."

"That was the reason I went up there then."

G. COMMUNIST ASSOCIATES AND FRIENDS

Bridges knew many individuals who were admittedly Communists.²⁰ The occasions upon which he met Browder, Darcy, Jackson, Rapport, Davis, and Humphreys, have already been described. He met Schneiderman during the 1936 campaign and has seen him frequently since. He met James Branch when Branch was active on the water front in 1931 and 1932. He met Ida Rothstein through her activities in connection with the unemployed. He knew Minnie Carson inasmuch as she was, according to his recollection, a delegate to the San Francisco Labor Council in 1934. He met Alexander Norral²¹ when Norral was connected with the Workers' Alliance. He was in one or two conferences with Elaine Black, who was an officer of the Industrial Labor Defense. These conferences were concerned with matters of labor defense. He saw Lawrence Ross and Elmer Hanoff at the time when the Western Worker offered its services to the strike committee. Other admitted Communists that he knew included Walter Stack, Walter Lambert, Rudy Lambert, Betty Gannet, Sam Telford, Roy Hudson, John Shoemaker, and Pettis Perry. Bridges seems to have been particularly intimate with John Shoemaker.

H. BRIDGES' POLITICAL AND SOCIAL BELIEFS

I. RELEVANCY OF BELIEFS

Bridges' beliefs are also relevant to the issue of membership or affiliation with the Communist Party for coincidence between his beliefs and the tenets of the Communist Party may be a basis for inferring membership or affiliation. He was examined at length with reference to them. Bridges seemed never hesitant in expressing his political faiths and convictions. Indeed, quite the contrary; for, given an opportunity to express himself, he forcibly and volubly expatiated upon the viewpoints that he held and his methods of propagandizing for them.

²⁰ Bridges' connection with admitted Communists only are treated in this connection. He associated and was intimate with many individuals alleged to be Communists by one or more witnesses in this proceeding, such as the moving-picture actors, Robert Montgomery and Frederic March, or trade-union officials such as Matt Meehan, Pritchett, Schmidt, and even his attorneys in this proceeding. But to draw inferences from these associations would be to indulge in the process of lifting oneself by one's own bootstraps.

²¹ Alexander Norral was a candidate for Congress on the Communist ticket in 1934.

II. PUBLIC OWNERSHIP OF MEANS OF PRODUCTION

Bridges was asked frequently concerning his views with reference to the problem of the "social ownership of the means of production," by which is meant the degree to which the ownership of the major means of production should be taken over by the Government. He stated that he was heartily in favor of extending Government ownership, believing that such maladministration of enterprise as would ensue could hardly equal the existing inefficiency of the private administration of enterprise.²² For Government to take over enterprise without compensation, however, he believed would be a violation of constitutional prohibitions. He admitted that the extension of Government ownership would naturally have the ultimate effect of doing away with employers as a class, but he disclaimed having any such an end in view because he thought that was impossible of immediate realization. As to this he said:

We have enough trouble on our hands at this time even getting the right to organize, the right to recognition, the right to have our trade-unions, or even to get a 10-cent-an-hour increase in wages. It seems to me that it might be all very well to talk about it, but before we get to the point where we can talk about it, even beyond the point of getting 5 cents or 10 cents an hour a day more, or an increase in wages, if we raise the issue that we are going to take over the means of production that is a long, long ways ahead.

I am not concerned with that. I believe it will be 30 or 40 years hence, and I do not think I will be around. There are plenty of things to be done today, for instance, the matter of gaining simple recognition of trade-unions and so on. There are areas in this country and in this State where we do not dare to go in as trade-unions.

III. THE CLASS STRUGGLE

Bridges believed that the employing class had as yet failed to concede the right of workers to organize and their claims to a decent livelihood. Because of this there was in existence in this country a true class struggle, not merely in theory but in actuality. On this issue he commented as follows:

Q. (By Counsel for the Government.) Well, is it a class struggle?

A. Is there a class struggle?

Q. Yes.

A. Very definitely.

Q. And in this class struggle, who are opposed; who are on the different sides?

A. Under certain circumstances, as I have already explained, there is lots of room for a lot more public ownership or Government ownership; and under those circumstances I certainly believe in the abolition of private property. I don't see why a handful of individuals should control enormous tracts of land here, why they should control all the public utilities; I don't see why they should control the railroads or the oil wells, or many of the natural resources of the country. They stole them in the first place.

Q. (By counsel for the Government.) Well, would you believe in the abolition of private property for the reasons stated by the Communists?

A. That brings to my mind the idea—when they talk of private property, they don't talk of somebody's two-by-four piece of land; they don't talk of a person's machine or house, or one thing and another like that.

Q. (Interrupting.) Will you pardon me right there? I believe that is exactly what Mr. Marx and Mr. Engels mean.

A. Well, I certainly am 100 percent opposed to anything like that. That private property in the sense as you describe it to me, I take it to mean the big utilities, the big factories, the big industrial plants; in other words, the means of production of the various heavy industries. That is the way I construe that. And I am in favor of Government ownership of those things; yes; and if the Government can't make a better job of running them and paying something to the people that work in them—private industry has, then I would say give it back to private industry again. But I am pretty sure the Government can do it.

A. Well, here is the way I would answer it: We generally find that there seems to be a great aversion to talking about the class struggle. The employer interests, they say it should be hushed up and never spoken of. The reactionary labor leaders, or the conservative labor leaders, say the same thing. But the class struggle is here and it is a struggle between the class on one hand that is represented—or that represents, or that I would describe as the large corporate interests of the country, and on the other hand between the working people, the small business people, the small farmer, and such as that.

Now, I can go into more detail; I think I can give specific examples on the matter, but that is where I draw the line.

On the one hand, if we have a group of employer interests, and on the other hand we have a group of workers, say, and the workers want an increase in wages, which means a lessening of the dividends or the income of the employer interests, and those employer interests, from a fair and honest point of view say, "Well, we have got maybe a little more than we need. It won't hurt us to give a little of that to that group of workers"—I think if they adopted that position the whole thing could be amicably arranged. But I have never run into that kind of a situation.

Q. Well, from your observation and your experience do you believe that the class struggle can be worked out amicably between the employer and the unions?

A. I can't see anything else but trouble, and trouble is going to occur. We have, for example, the small farmer. Rapidly he is being eliminated. In California 90 percent of the farms, farming is carried on by the big banker-farmer and the small farmer is being forced off his land; he is being foreclosed on, and he is losing out all the way down the line. It comes about because of the large banker-farmer corporations.

We have the same thing with the corner grocery store, the corner drug store. It is not the labor union that is hurting the corner grocery store. Every one of them will tell you that because they depend for their livelihood and their trade on the working man. As long as he is organized and getting decent wages the corner grocery store, the corner drug store, and the butcher shops prosper. The things that is hurting those people are the chain stores, chain markets, chain drug stores, chain grocery stores. They are all open shop and nonunion and they chisel on wages and sell to the public, and cut down the prices on the small businessman. If that keeps on—it is spreading all the time. The chain stores and the big corporations are spreading all the time and engulfing and eliminating the small businessman, generally known as the middle-class.

I presume, from a practical point of view, that I see every day, that these large corporations are getting control of everything, and they will have a monopoly in their associations and corporations and if that keeps on I do not know what is going to be the outcome. I think you will probably have about 30,000,000 people on relief. Those people on relief will demand that they stay on relief, and the big corporations, as they have already done, will deny them the relief.

But they won't answer the question, "Are they going to starve to death?" They will say, "It is none of our business. We are sorry, but it is none of our business."

If it is our business in the trade unions to do something about it. It is a condition before us and we have to do something about it. I cannot ignore it.

This is a struggle between the two classes. It is not a question of whether you believe in it or not, it is a question of facts that are before you, and any person in the trade-union movement, unless he is completely devoid of brains, knows this is the situation.

The only thing that I see to do about it right now is to organize the trade unions and we will head off a little bit of it.

Q. Do you think then these two will be so utterly opposed that there will be a class war which will mean guns, bombs, and things of that kind, to perhaps reconcile the differences between the two classes?

A. I am not passing opinions on it. I am stating the facts. As I say, that exists right today and right at this very minute. Everywhere in the country today, in practically every locality in the country there are workers now being shot down on picket lines.

I have never stood for, have never allowed any of our unions, any of our workers, to arm themselves, to use clubs, or anything else.

In the 1934 strike I stood there at the union headquarters, with guards, and all of the men were rolled, every single man in our union, to see if they had guns. We found a few, maybe, and they were thrown in the safe.

When the attack came on us on July 5 there was a public statement, and I can bring it here, in the newspaper and that was to urge all the men and tell them that they could not fight tear gas, machine guns, and rifles, and not to fight back; that we would organize public opinion against this murder.

I have never run into one union worker yet that started this use of tear gas, or police clubs, or anything like that. It is always started by the employers, or their provocateurs. Never once have I found a group of workers that relished the idea of running up against guns, and the police line, the National Guard, or anything else.

Today in every section of the country there are people being shot down, not for revolutionary activity, but because they are trying to strike and picket and get increased wages.

That is enough trouble for us to consider, without worrying about what is going to happen 20 or 30 years from now.

Bridges held the opinion that groups of people in the country were organized to oppose the interests of labor as he saw them. That organization he stated was frequently on a national scale as in the case of the National Association of Manufacturers, the United States Chamber of Commerce, the Associated Farmers, and others. He believed that other organizations avowedly concerned with objectives that should have no relationship to the "class struggle," as he defined it, had mostly unwittingly been drawn into its vortex and become partisans against the interests of labor. Among these he placed the American Legion, the United States Immigration Service, the National Guard, the police, and frequently the courts.

IV. PENALTIES FOR UNFAIR LABOR TACTICS

Bridges was so insistent upon preserving the rights of labor to organize that he wished to improve the mechanisms in the law to secure that right. He believed that sanctions should be devised which would prevent penalties for violations of that right being passed on, in an economic sense, to consumers and to labor, the effect that he argued would attach to a mere pecuniary penalty that might be imposed upon an offending corporation or employer. He believed that under these circumstances some penalty in the form of temporary or permanent confiscation of industrial property might be proper. The idea was only vaguely formed in his mind but might be thought of in terms of labor bankruptcy. In other words, if management proved itself utterly incompetent to effect an appropriate solution of its continuing obligation to labor, something akin to a petition for receivership ought to be available to these "labor creditors."²³

²³ Cf. U. S. v. Lowden (U. S. Sup. Ct., decided Dec. 4, 1929).

"In the preparation and execution of the plan it speedily became apparent that the great savings which would result from consolidation could not be effected without profoundly affecting the private interests of those immediately concerned in the maintenance of the existing Nation-wide railway system, the railroad security holders, and employees. The security holders are usually, though not always, favorably affected by economies resulting from consolidation. But the Commission has estimated, in its report on unification of the railroads, that 75 percent of the savings will be at the expense of railroad labor. Not only must unification result in wholesale dismissals and extensive transfers, involving expense to transferred employees, but in the loss of seniority rights which, by common practice of the railroads, are restricted in their operation to those members of groups who are employed at specified points or divisions. It is thus apparent that the steps involved in carrying out the congressional policy of railroad consolidation in such manner as to secure the desired economy and efficiency will unavoidably subject railroad labor relations to serious stress, and its harsh consequences may so seriously affect employee morale as to require their mitigation both in the interest of the successful prosecution of the congressional policy of consolidation and of the efficient operation of the industry itself, both of which are of public concern within the meaning of the statute."

Akin to this conception is another utterance of Bridges. It might, he contended, be possible that the organized corporate wealth of this country might so oppose a liberal legislative program advanced by labor as to refuse to continue production as a protest against it. Such a capital strike, he insisted, could never be countenanced and in the event that it did occur the workers acting through the Government would be compelled to take over the factories and operate them themselves.

V. EXISTING UNFAIR DISTRIBUTION OF REWARDS

Bridges also protested against the unequal distribution of rewards that he believed characterized our existing system. His position was not that an absolute equality was the ideal, but that such differentiations as should be made should have some rational base, that is either skill, training, or the extent of the contribution made. Too much irrationality, he observed, characterized the present scheme of things and that very irrationality was too frequently defended by the interests opposed to the growth of trade-unionism.

VI. EMPHASIS UPON DEMOCRATIC PROCEDURES

Bridges insisted that the answers to the problems that were thus posed could be made more effectively through the extension of the democratic machinery rather than otherwise. Bitterly critical of many of those now in control of that machinery, his insistence was that this condition was not a necessary consequence of the machinery itself but was an excrescence that could be eliminated particularly by the growth of trade-unionism. Because of this belief which he stated he possessed in the democratic mechanism, trade-unionism, he contended, had to enlarge its conception of objectives. The maintenance of those claims that ordinarily go under the name of civil liberties would thus be one of its concerns.

VII. ATTITUDE TOWARD COMMUNISM

Bridges' views on communism would put him in direct opposition to those who believe that communism is in itself a danger to the democratic method. Communists, he claimed, were normally good trade-unionists. He failed to accord with the viewpoint that regarded the Communist Party as a true revolutionary party bent upon bringing about the overthrow of the Government by resort to force and violence. He was pronounced in his opposition to purging the unions of members simply because they were communists or excluding persons from membership upon that ground. On the other hand, he believed that the reliance placed by Communist theory in true revolutionary tactics—a fact that he doubted as being a tenet of most Communists that he knew—contained more folly than danger. His own judgment of the strength of the existing system led him to the view that the pursuit of such aims was utterly impracticable, indeed, so impracticable as to not deserve the dignity of governmental suppression. That suppression, he believed, tended too frequently to play into the hands of those who were outwardly battling against communism but inwardly directing their efforts under that facade.

toward the destruction of the trade-unionist movement. It was for this reason, he claimed, that he was frequently militant in his opposition to the attacks made by others on communism.

VIII. MISCELLANEOUS MATTERS

Among particular political programs that Bridges admitted he supported were proposals for heavy inheritance taxation, which he regarded as being a means for breaking the existing concentration of wealth. He favored Upton Sinclair's EPIC campaign in California in 1934, the United Labor Party in San Francisco in 1935, and the Democratic national ticket in 1936. With reference to the Russian experiment, he claimed not to have sufficient knowledge upon which to base a judgment. Voluble in his opposition to fascism and nazi-ism, he believed that as far as he knew the Russians held objectives more compatible with the interests of the workers and their liberties than those that characterized the other two systems.²⁴

Bridges was not critical of the existing framework of American constitutional Government. He suggested a constitutional amendment giving suffrage to soldiers and sailors, believing that their inability to vote stemmed from the Constitution. Other than this he thought that the objectives he held to be desirable could be attained under the existing system.

²⁴ It should be observed that this testimony was given prior to the recent accord reached between Russia and Germany. Judicial notice can seemingly be taken of the widespread effect that this accord, followed by the Polish and Finnish invasions, has had on many persons that formerly held hopes as to the integrity of the aims professed by the U. S. S. R.

V. CONCLUSIONS ON REMAINING MATTERS

1. ON BRIDGES' MEMBERSHIP IN THE COMMUNIST PARTY

The preceding analysis has led to the complete rejection of the testimony of certain witnesses. Though in some part these rejections rest upon those impressions as to credibility, impossible adequately to articulate, which the trier of the facts must necessarily glean from the demeanor of the witnesses on the stand, the grounds for these rejections have in the main been set forth at length in the preceding pages. To go over this ground once again is unnecessary and unwise for appreciation of the bases for these rejections must have regard to the minute analysis heretofore made.

There remains, however, the testimony of a number of witnesses as to whom no conclusions have yet been reached. Though they are witnesses who play minor roles, some comment upon their testimony seems desirable. These witnesses are Leppold, Stark, Howard, Detrich, Allen, and a portion of Davis' testimony. Apart from Davis, most of this testimony is either hearsay in nature or of the opinion variety. Where it has rested upon opinion, the bases of the opinions have been probed in order to discover whether the inferences shared by the holder are such that one can be satisfied that they represent the fact. Analysis of the bases upon which Leppold, Howard, and Detrich rest their conclusions that Bridges was a Communist, seems inadequate to establish that fact. All of them derive their conclusions from Bridges' general opposition to attempts to attack particular trade-union policies as communistic. There is no question but that this represented Bridges' attitude, but opposition to "red baiting" is not the equivalent of proof of Communist membership.

There are other bits of hearsay testimony more or less specific in character, running from Stark's statement that Rapport inadvertently referred to Bridges as Comrade Bridges to Howard's statement that Rover had said that Bridges was a Communist. To accept these as proof requires one frequently to leap the barriers of both the common-law rule against hearsay testimony as well as the rule against opinion evidence. Allen's recital of Henderson's remark, apart from the inherent incredibility that generally attaches to Allen's entire testimony, also falls within this category. In many of these situations all that the testimony gives is an additional item of opinion evidence weakened by being a step further removed. It thus does not conform with the most elementary principles of judicial proof.

The hypothetical admissions on the part of Bridges of Communist membership testified to by Howard and Detrich must also be dismissed. They again prove only that Bridges had no hostility toward the Communist Party as such, not that he was a member of that party.

Davis' statements with regard to the two Communist meetings he attended with Bridges are not convincing. There is the general doubt that pervades all of Davis' testimony. The grounds for the possession of this doubt have been set forth before during the analysis of that testimony. Furthermore, it is clear that Davis was in error in treating the Magnolia Bluff meeting as a Communist meeting. That meeting was not only nearer in point of time than the Clay Street and Haight Street meetings, but his recollection of the persons present at the Magnolia Bluff meeting and of the nature of the talk at that meeting was clearer than his remembrance of the others. Why Davis should have testified as he did need not here be answered; it is enough to conclude that his testimony distorted facts that he may, in part, have experienced.

Bridges' own statement of his political beliefs and disbeliefs is important. It was given not only without reserve but vigorously as dogma and faiths of which the man was proud and which represented in his mind the aims of his existence. It was a fighting apologia that refused to temper itself to the winds of caution. It was an avowal of sympathy with many of the objectives that the Communist Party at times has embraced, an expression of disbelief that the methods they wished to employ were as revolutionary as they generally seem, but it was unequivocal in its distrust of tactics other than those that are generally included within the concept of democratic methods. That Bridges' aims are energetically radical may be admitted; but the proof fails to establish that the methods he seeks to employ to realize them are other than those that the framework of democratic and constitutional government permits.

2. ON BRIDGES' "AFFILIATION" WITH THE COMMUNIST PARTY

Bridges' relationships to the Communist Party have already been sketched at length. They are, in general, his well-defined opposition toward "red baiting"; his acceptance of aid and assistance in his industrial struggles from the Communist Party—indeed, his solicitation of that aid; his expressed disinclination to disavow that help; his association with persons admittedly Communists, an association that derives primarily from his requests for and acceptance of such aid. There are, specifically, his support of the Western Worker during the 1934 maritime strike; his requests for aid in connection with such issues as the *King-Ramsay-Conner* and *Modesto* cases; and the United Labor Party ticket; his not infrequent conferences with the Communist officials on the Pacific coast in regard to these and other matters; his admiration of the sincerity of persons in the trade-union movement, some of whom were avowedly Communists, and his willingness to work with them in the realization of his trade-union ideas.

This evidence, however much it may disclose lack of judgment or associations that may be regarded by others as reprehensible or unfortunate, falls short of the statutory definition of affiliation. Persons engaged in bitter industrial struggles tend to seek help and assistance from every available source. But the intermittent solicitation and acceptance of such help must be shown to have ripened into those bonds of mutual cooperation and alliance that entail con-

tinuing reciprocal duties and responsibilities before they can be deemed to come within the statutory requirement of affiliation. Judge Chase in *Kettunen v. Reimer*, 79 F. (2d) 315, and the other judges in the cases heretofore reviewed,²³ insist upon the application of this standard. To expand that statutory definition to embrace within its terms *ad hoc* cooperation on objectives whose pursuit is clearly allowable under our constitutional system, or friendly associations that have not been shown to have resulted in the employment of illegal means, is warranted neither by reason nor by law.

3. CONCLUSION

The evidence therefore establishes neither that Harry R. Bridges is a member of nor affiliated with the Communist Party of the United States of America.

²³ See the authorities collected in pt. III, *supra*. See also Thatcher, J., in *United States ex rel. Voich v. Commissioner of Immigration*, 8, D. N. Y. reported in U. S. Daily, July 19, 1929, p. 8: "The relator consorted with radical agitators, and no doubt sympathized with their views; but this is not enough to warrant his deportation, unless prejudice is to take the place of proof. The statute is specific. This is no evidence to bring the relator within its terms."

APPENDIX I

OPINION ON REQUEST FOR BILL OF PARTICULARS

This is a proceeding brought by the Government of the United States, acting through the Department of Labor, pursuant to the provisions of section 19 of the act of February 5, 1917 (8 U. S. C. sec. 155), for the deportation of Harry R. Bridges on the ground that he is one of the classes of aliens subject to deportation by section 2 of the act of October 16, 1918, as amended by the act of June 5, 1920 (8 U. S. C. sec. 137).

On March 2, 1938, a warrant for the arrest of Bridges was issued by the assistant to the Secretary of Labor. This warrant recites that since it appears upon evidence submitted that Bridges is subject to deportation under the provisions of the acts above recited, he is ordered to be taken into custody and that a hearing is to be granted to him to show cause why he should not be deported in conformity with law. The warrant also sets forth four reasons as to why Bridges is thought to be deportable under the provisions of the law. These are, in brief: (1) That after he entered the United States he became a member of an organization that believes in, advises, advocates, and teaches the overthrow by force and violence of the Government of the United States; (2) that after he entered the United States he became affiliated with such an organization; (3) that after he entered the United States he became a member of an organization that causes to be written and circulated printed matter advising the overthrow by force and violence of the Government of the United States; and (4) that after he entered the United States he became affiliated with such an organization.

On April 12, 1938, counsel for Bridges filed a request for a bill of particulars. This request asks particulars concerning the name of the organization above referred to, the date when he is alleged to have become a member, the place where he is alleged to have become a member, the written documents, if any, tending to prove his alleged membership, the manner in which it is claimed he became affiliated with such organization, the specific acts or conduct which are alleged to constitute such affiliation, and the printed matter advising the overthrow of the Government of the United States which such organization caused to be written or distributed. The Government opposes the granting of this request save as to the name of the organization to which the charges in the warrant for his arrest relate (Cf. *Ungar v. Seaman*, 4 F. (2d) 80). This organization, the Government replies in its memorandum opposing the request, is the Communist Party of the United States of America.

Proceedings in deportation cases must comport with those fundamental requisites of fairness, of due process of law, that attach to judicial and administrative procedure alike (Cf. *Chin-Yow v. United*

States, 208 U. S. 8). One of these is that a person charged with an offense or, as here, alleged to be within a category of deportable aliens, shall have notice of the nature of the charge adequate to give him the opportunity to meet it. But that principle of fair notification does not require the Government in advance of a hearing to furnish the respondent with the evidentiary details upon which a particular charge rests when that charge is already described with the fullness of phraseology that the statute itself employs (*United States v. Gooding*, 12 Wheat. 460; *Johnson v. United States*, 5 F. (2d) 471). Not only is ample opportunity to meet evidence with counter evidence, examination with cross-examination, given at the hearing itself, but the officer in charge can always mold the procedure so as to guard against unjustifiable surprise (Cf. *In the Matter of Meehan*, 1 S. E. C. 238).

Apart from those items that relate to the name of the organization of which the alien is alleged to be a member and with which he is alleged to be affiliated, this request for particulars seeks in substance discovery of the evidence upon which the principal charges rest. That can await the hearing, particularly in this case since the Government alleges that some of its witnesses have shown timidity in being willing to testify. The Government urges rightly therefore that a disclosure prior to the hearing of their names, or of dates, or other points of evidence would tend to prejudice its interests.

Since the Government in its submitted memorandum has met the request for particulars with regard to the items above mentioned, to wit, those that relate to the name of the organization involved, the request for further particulars is herewith denied.

JAMES M. LANDIS, Trial Examiner.

CAMBRIDGE, MASS., June 27, 1939.

APPENDIX II

OPINION ON MOTION FOR CHANGE OF VENUE

Before proceeding with the testimony I want to dispose of one matter that has been pending and that is counsel for the alien have renewed their motion to remove these proceedings from Angel Island to San Francisco, praying particularly that that motion will be granted at the close of the presentation of the Government's case.

Counsel argue that the reasons that have been advanced by the Government prior to this time, namely, the protection of the Government's witnesses, can more easily be made effective if the proceedings be held here than in San Francisco no longer prevails since the witnesses after that time will be the alien's witnesses and not the Government's witnesses.

They further argue that their convenience, as well as the convenience of others, will be well served by having the proceedings in San Francisco. They also urge that the purpose of securing an open trial for the alien can better be accomplished there than here.

Though admitting that some system will have to be put into force so that the place of trial in San Francisco will not be overcrowded, they point out that greater facilities for admitting the public are available there than here. The admission of even such limited numbers of the public is to them an important thing, inasmuch as a more accurate sense of the procedure as well as a feel of the atmosphere of the proceeding can thus be acquired by greater numbers of the public at first hand and thereby serve to counteract or to support the pictures presented of the hearing by the diverse and sometimes discordant voices of the public press.

They state that because of the restrictions that, from the want of room have necessarily been imposed upon attendance at this hearing, persons, particularly members of unions with which the alien is associated, are anxious as to whether that openness that attends other judicial and administrative hearings prevails under the conditions here at Angel Island.

The disposition of this motion has given me such concern that I believe it necessary to state the reasons which underlie my action.

As a matter of strict law no right even to any kind of an open hearing attaches to proceedings of this nature. Deportation has been held by the courts again and again to be a civil proceeding to which the requirements of the sixth amendment to the Constitution of the United States, calling for an open trial, do not apply. Furthermore, the practice of the Department of Labor, as I have been advised, has uniformly been against admitting other than the parties and their counsel to hearings of this nature.

But I do not choose to rest my decision upon considerations relating merely to power, for the motion itself is addressed to discretion and

not to a claim of right. Indeed, the seriousness of the consequences of deportation to the alien involved, despite the fact that the proceeding is regarded as technically civil in character, lead me to the conclusion that those constitutional standards of fairness in criminal administration set forth in the sixth amendment should have application by analogy to proceedings of this character. Indeed, it has seemed especially wise to me that in this proceeding the normal closed procedure of deportation hearings has been departed from.

I ask myself therefore whether the requirements of an "open trial"—such as those constitutionally required in criminal cases—have been met in this proceeding. Preliminary to that answer, I shall rehearse the requirements that have been in force hitherto at this proceeding. Admission has been by pass only, those passes being given out either by myself or the immigration director, Mr. Haff. These passes have been given to every representative of the public press that to my knowledge has applied. They have also been given out to representatives of organizations who have a direct or indirect interest in the proceedings, such as the American Civil Liberties Union, the Bridges Defense Committee, the King Defense Committee, the International Labor Defense. Others, whose desire to attend the hearings has arisen from little more than a legitimate and praiseworthy interest in public affairs, have also been granted passes to attend. I have denied, I believe, only one request and that upon reasons that seemed to me at the time valid. It is true that the infrequency with which the steamer runs and the hour or so taken up by transportation to and fro make attendance at this hearing practically impossible for the casual observer. But his apperception of the nature and manner of the proceeding would in any event be limited by what could be gleaned by him in a few minutes' time.

Restrictions such as these seem to me to meet both the spirit and substance of the requirements of the sixth amendment. The purpose of that requirement has never been set forth better than by Judge Cooley at page 647 of the eighth edition of his work on constitutional limitations. He says:

The requirement of a public hearing is for the benefit of the accused; that the public may see that he is fairly dealt with and not unjustly condemned; and that the presence of interested spectators may keep his triers keenly alive to a sense of their responsibility and to the importance of their functions; and the requirement is fairly observed if, without partiality or favoritism, a reasonable proportion of the public is suffered to attend, notwithstanding that those persons whose presence could be of no service to the accused, and who would only be drawn thither by a prurient curiosity, are excluded altogether.

Other authorities to the same effect are *United States v. Buck*, 24 Fed. Cases, 14, 680; *Reagan v. United States*, 202 Fed. 488 (a decision of the circuit court of appeals for this circuit); *State v. Nyhus*, 19 N. D. 326, 124 N. W. 71; *Bloomer v. Bloomer*, 197 Wis. 140, 221 N. W. 734. Compare also *People v. Murray*, 89 Mich. 276, 50 N. W. 995; *Ohio v. Hinsley*, 75 Ohio St. 255, 79 N. E. 462.

It is true, however, that a specific reason of the Government for holding the hearing in Angel Island—namely the protection of the Government's witnesses—will cease to exist after the Government concludes its case. I suggested, however, a further reason to counsel both for the Government and for the alien. That reason stems from the fact—of which I cannot pretend to be ignorant—that this pro-

ceeding has excited not only the interest but the emotions and prejudices of great numbers of people. Indeed, witnesses have testified on the stand to veiled and specific threats, and one claim of intimidation of a witness here in this room was called to my attention. Though much of this talk that arises from communications not made under oath can be dismissed as falling within the category of old wives' tales, there seems to me sufficient foundation to believe that there is a possibility of reprisal, either by words or action, being visited upon some accuser, whether that accusation be made in attack on or in defense of the alien. I suggested to counsel that the occurrence of such an incident, because of the recriminations that would then be freely indulged in, probably by both sides, might seriously jeopardize the interests of the alien or the Government or both, and that the chances of averting such an incident seemed to me for better if the proceeding should continue here rather than be removed to San Francisco.

Counsel for the alien, however, are willing to take that risk. They point out that such contingencies are normal to any criminal trial where local passions have been aroused. Admittedly that is so, but in weighing that contention I have to consider both that the responsibility for protecting the alien in this proceeding from unwarranted accusations on subsidiary matters not relevant to the issues in this proceeding but tending to prejudice the unbiased consideration of those very issues is mine as well as that of counsel for the alien, and, secondly, I have to consider my limited powers as an administrative official as contrasted with a judge. Without the power to punish for contempt persons who are unruly in my presence or persons who by threats or otherwise obstruct the orderly administration of justice, without the ability to hold persons for grand-jury action, and also without the assistance of court officers such as are attached here to the Department of Labor and available for that purpose, a difference of no mean degree exists between an administrative official and a judge. Indeed, as I survey my responsibilities and the limited means with which the law equips me to discharge them, I am driven to the position where I believe that I cannot with due regard to the interests of the alien and the Government concur with counsel in their request. I regret that this is so, and I should prefer that it were otherwise. But it is the best balance that, amid these conflicting and often impalpable considerations, I have been able to strike.

The motion is denied.

JAMES M. LANDIS, Trial Examiner.

ANGEL ISLAND, August 2, 1939.

APPENDIX III

STANLEY M. DOYLE

Early in the proceedings a subpoena was issued for Doyle upon the request of the alien. The subpoena was served upon him by an immigration official by leaving it at his place of residence, in Lumberton, Minn. That service was probably legally defective even though it seems to correspond with the current practice of the Department of Labor. See 1 Chitty, Arlindob's Practice, (10th ed.) 329; Sichel, Practice Relating to Witnesses, 74. Its original defectiveness was, however, cured by his admission of service prior to the issuance of the rule to show cause. (*Ferey v. Strome*, 1 Yeates (Pa.) 303; *Chicago & Aurora R. R. v. Dunn*, 18 Ill. 494; Rapalje, Law of Witnesses, 518). Difficulties arose with reference to assuring to Doyle the payment of his witness and mileage fees. Since Doyle could not be contacted by immigration officials, no arrangements could be made with him with reference to these fees.¹ The examiner consequently required as preliminary to the issuance of the subpoena, arrangements to be made for the tender to Doyle through the United States district attorney in Minnesota of the statutory mileage fees from Minnesota to San Francisco and for the deposit with the examiner of funds sufficient to pay both the return mileage fees to Minnesota and such sums as might be found by the examiner to be due to Doyle for the loss of time occasioned by compliance with the subpoena. The whole sum was not tendered to Doyle before leaving Minnesota because of doubts as to the fees to which he was legally entitled and the compensation he could justifiably claim.

Doyle announced through the press and otherwise that he would not respond to the subpoena unless his mileage fees, to San Francisco and return, together with \$50 per day by way of compensation were paid to him in advance. Thereupon, pursuant to subdivision B of rule 24, a rule was obtained from the United States District Court for the Northern District of California ordering Doyle to appear and show cause why he should not present himself and testify at the hearing.² Weeks elapsed before this rule could be served upon Doyle. The United States marshal for Minnesota was aided in his search for

¹ Paragraph 1 of subdivision C of rule 24 of the Immigration Rules and Regulations reads: "If a witness subpoenaed at the request of the alien or his representative demands that he be recompensed for time lost from his employment, arrangements therefor must be made by the alien or his representative as a condition precedent to the issuance of the subpoena." To make this rule at all sensible it is necessary to read the word "subpoenaed" as "to be subpoenaed." That, however, creates an impracticable situation for the demand for compensation for time lost is likely to arise in the case of hostile witnesses only subsequent to the service of the subpoena. The rule does not specify that the "arrangements" to be made must be pursuant to an agreement with the witness. It read in this fashion a hostile witness by refusing to agree can defeat service of the subpoena. The examiner consequently determined that the rule would be met if appropriate "arrangements" for the payment of these fees were made even though they were independent of the witness' consent. The rule is further subject to criticism in that it burdens an alien with the cost of loss of time of his witnesses whereas the Government's obligation extends only to the statutory fees.

² This proceeding was brought under the authority of S. U. S. C. § 152. *United States v. Parsons*, 22 F. Supp. 149. Jurisdiction in these cases by specific provisions of the statute is conferred upon the United States district court of the district in which the investigation is being made, contrary to the universal and preferable practice in similar situations of conferring this jurisdiction upon the district court of the district where the witness is found or is resident. Cf. *Robertson v. Railroad Labor Board*, 268 U. S. 619.

Doyle by immigration officials. The examiner also suggested to the Secretary of Labor that the assistance of the Attorney General of the United States be invoked to help effect that service. Finally by a ruse the service was effected.

The examiner was informed that Doyle would appear on Monday, September 11, 1939, at 9:45 a. m. By Friday, September 8, 1939, the hearing was substantially concluded except for the testimony of Doyle. The examiner, whose duties at home were pressing, thereupon adjourned the hearing until Monday. On Sunday the examiner was informed by Doyle that due to eventualities over which he had no control he would not arrive "to testify until some time Tuesday."

On Monday the hearing was concluded very shortly save for the testimony of Doyle. The examiner then announced that inasmuch as his other duties were pressing and that inasmuch as Doyle's conduct was such as to give no assurance that he would appear on Tuesday, the hearing would be adjourned until such time as Doyle appeared and that that portion of the hearing would take place before a deputy examiner, Mr. John G. Clarkson. The examiner also concluded that inasmuch as Mr. Clarkson's duties were to be limited to those of a presiding officer, having no duty to find the facts, that the testimony of Doyle should not be taken publicly but rather by way of a deposition. This testimony upon its conclusion would be forwarded to the examiner and by him be made a part of the public record.

Doyle presented himself before Mr. Clarkson on Wednesday, September 13, 1939. He was then represented by counsel, Mr. Harry W. Glensor, of San Francisco. At this hearing the alien, his counsel, and counsel for the Government were also present. Through his counsel Doyle stated that he was "willing to take the stand and be sworn upon payment of the balance of his witness fees and mileage." * * * and that he was "now waiving his compensation for loss of time." "I want to make that clear," added his counsel. Thereupon Mr. Clarkson, the presiding officer, after stating that "Mr. Doyle is here and is willing to testify," proceeded to calculate those fees. A sum of \$131 was arrived at, which was agreed to, by Doyle and by counsel for the alien. A check for that sum was given to Doyle, drawn against the funds specially deposited by the alien for this purpose. Thereupon Doyle was sworn, but immediately thereafter his counsel stated that he advised Doyle not to answer any questions upon the ground that the hearing was a closed hearing—a fact known to counsel long before that time. Counsel stated that Doyle would continue in that refusal until a court of competent jurisdiction should rule that Doyle should be obliged to testify. Mr. Clarkson, following the specific orders of the examiner, ruled that the hearing should remain closed. Doyle persisted in his refusal to testify.

Upon objection by counsel for the alien that the agreement had been that Doyle upon receipt of the \$131 would testify, Mr. Glensor replied that all he had said was that Doyle would then take the stand and be sworn. He added: "I said that repeatedly and I carefully chose that language." That Mr. Glensor had thereby deliberately misled the parties present at the hearing, including the presiding officer, is not open to question.

Counsel for the alien requested the presiding officer to rule that Doyle should retain the check, but the presiding officer believed that he was powerless to do more than request its return, a request that was refused by Doyle.³ The hearing was then adjourned, pending a move to secure a court determination upon the obligation of Doyle to testify.

The court proceeding took place on the morning of September 14, 1939. At this juncture Doyle reentered the issue of fees into the case by withdrawing his offer to waive such compensation as he might be entitled to for lost time. He first demanded \$50 a day. That demand, however, rapidly declined to \$20 and then to \$15.⁴ Doyle explaining that his original demand was purely to "chill" counsel for the alien. The court ruled against Doyle's claim that he was entitled to a public hearing, but the amount of fees due to Doyle and the manner of their payment were left in doubt. The subsequent order signed by the court ordering Doyle to testify made no mention of fees and compensation.

That afternoon the hearing was reconvened to take the testimony of Doyle. Counsel for Doyle thereupon refused to permit Doyle to take the stand until his fees were paid to him, fees that included not only the \$131 that had been previously agreed to, but also that should include additional compensation for loss of time. Counsel for Doyle also took the position that they would consider themselves to have the right to appeal again to the court from any determination that the presiding officer might make with regard to what should be paid to Doyle as compensation for his loss of time.

The presiding officer directed Doyle to answer in accordance with the court's order, but he refused to do so. Counsel for the alien then reverted to the original position that they had taken with reference to Doyle, i. e., that they would abide by whatever determination should be made by the presiding officer as to what was due to Doyle by way of mileage and witness fees and compensation for loss of time, that this sum would be put up with the presiding officer to be paid over to Doyle when he had fulfilled satisfactorily to the mind of the presiding officer his obligation to testify, but that no moneys should be paid to Doyle prior to that time. The presiding officer suggested that there should now be paid to witness his mileage fees to San Francisco, his witness fees and compensation for loss of time to date, exclusive of the amount already paid to him, that each day that he testified he should be paid a witness fee for that day and further compensation for loss of time, and that at the close of his testimony return mileage fees should be paid. Doyle stated that he would accept this suggestion. This offer was, however, rejected by counsel for the alien. The presiding officer thereupon intimated that he would then excuse the witness. Before doing so, he inquired of the Government if they wished to call Doyle. The Government declined to do so. Thereupon the witness was excused.

³ The presiding officer was requested to ask the bank to stop the payment of this check but he declined to take such action. Thereupon counsel for the alien took action to stop its payment. At the close of the hearing Doyle was left in possession of the check upon which payment had been refused by the bank. Subsequently Doyle's counsel requested the examiner to order counsel for the alien to release the stop payment order. Counsel for the alien informed the examiner that they would comply with whatever order he might make in this respect. The examiner declined, however, to make any order, believing the issue was one that should be fought out by Doyle and the alien.

⁴ Doyle later was agreeable to the suggestion that \$10 was sufficient.

APPENDIX IV

AMATEUR SPORTS CLUB LEASE

Austrian testified that he had never represented the Communist Party. He admitted readily to having known Emma Cutler as a family friend for many years and that he believed her to be a member of the Communist Party. Queried specifically as to whether he had ever arranged for a lease on a hall in Los Angeles for the Communist Party during the 1936 presidential campaign, he stated that all he did in connection with that lease was to act as a stakeholder of certain money that the lessor required as a deposit in order to cover any damages that might occur to the hall. He denied specifically that he had arranged in the first place for the lease.

On rebuttal the government called two witnesses whose story of this incident varies from that given by Austrian. These two witnesses were Reuben Licker and Saul Bernard, both of whom are attorneys who practiced together in Los Angeles. Bernard is also president of a corporation known as the Amateur Sports Club which owns an auditorium in Los Angeles. According to them, on or about September 10, 1936, Emma Cutler got in touch with Bernard to lease the auditorium for the night of October 11, 1936. A conference followed in Bernard's office at which Bernard, Licker, Emma Cutler, Austrian, and another officer of the Amateur Sports Club were present. The terms of the lease were then arranged, the sum being \$150 of which \$50 was then paid down.

Licker and Bernard testified that Cutler stated at this conference that she wanted the auditorium for an open forum to discuss all the candidates then running for President and that no mention was then made that the hall was to be used for a Communist rally. At that time a provision was also inserted in the lease requiring the lessee to deposit \$100 with Austrian to cover any breakage that might occur.

Some time later, after this meeting had been advertised as a Communist rally at which Ford, the Communist candidate for Vice President, was to speak, Bernard, with the consent of his directors, notified Cutler that they were going to cancel the lease. Cutler thereupon appeared at Bernard's offices and protested vigorously against such action. Austrian, having been telephoned to, also protested.

Two or three days before the scheduled meeting Bernard was notified that a restraining order was being sought against the lessor. He immediately called a conference of the lessor's officers and that night they all left on a private yacht for Catalina Island in order to evade service of the order. They stayed away for the necessary length of time. Police guarded the hall to prevent Communists from having a meeting in it.

Later an action was brought by Cutler for and on behalf of the Communist Party for damages for canceling the lease. The lessor

replied that no representation had been made by Cutler that the hall was to be used for a Communist rally but that a contrary representation had been made. In this action Leo Gallagher was the attorney of record for Cutler and Austrian was a witness in the case. The jury rendered a verdict for the defendant.

The significance of this incident relates only to the correctness of Austrian's statement in this proceeding that he had never acted as an attorney for the Communist Party nor as an attorney for Emma Cutler. Accepting Licker's and Bernard's statement at their face value it falls short of such proof. It is true that Austrian helped Cutler in negotiating the lease, but it seems doubtful, even in the light of the later protests to Austrian, that he was regarded as Cutler's attorney either by Cutler or by Licker and Bernard. When the protest against cancellation was made and action threatened it was Cutler who made this protest. Moreover, she made it personally rather than through or in association with Austrian. Furthermore, if Austrian had been regarded as the attorney for Cutler, it would be most unusual to have made him the stakeholder of the breakage money when its payment over would necessarily involve disputes between Cutler and Licker and Bernard. Austrian seems rather to have considered himself as acting merely as a friendly counselor to Emma Cutler who was an old friend of the family. This being so, Austrian's testimony in this proceeding on this point is not subject to real criticism.

It is argued that the incident has further relevance with regard to Austrian's credibility in that it tends to prove him to have been guilty of perjury.¹ Even taking the testimony of Licker and Bernard at its face value, that Austrian had testified in the later legal proceeding that there had been no misrepresentation in the negotiation of the lease, the verdict of the jury does not establish the fact that Austrian committed perjury in that proceeding. That jury, it is true, may not have believed him. But it is elementary that a jury's verdict has conclusiveness only with reference to the issues it determines, in this case the liability for damages for cancellation of the lease.² Any other rule would brand all witnesses who may have testified for a losing party as perjurers.

¹ Licker made a statement to this effect upon the stand, claiming that the reason he was testifying in the proceeding was partly to show up Austrian as guilty of perjury. He was summarily interrupted by the examiner as it was obvious that Licker was intending to make for his benefit and that of the audience a speech upon the depth of his patriotism and his concern for the integrity of the legal profession. There is enough in the record apart from such inferences as Licker's own loose testimony furnishes, to doubt the possession of either of these two qualities by this witness.

APPENDIX V

THE SO-CALLED LEECH AFFIDAVIT

[Matter stricken through is stricken in this copy. The interlineations are inserted in brackets following the stricken matter. Italicized words are handwritten; words not italicized are typewritten. Exhibit notations are omitted.]

STATE OF CALIFORNIA,

County of Los Angeles, ss:

John L. Leach, being first duly sworn, deposes and says:

My name is John L. Leach [Leech]; I was formerly a member of the Communist Party, occupying the position of Los Angeles County Organizer and member of the California State Committee until about November 1936. The name under which I held membership in the Communist Party was John A. Lewis. I understand that I was expelled from the Communist Party sometime in the spring of 1937.

About June 23, 1937, I was approached by a man calling himself William E. Browne, who claimed to be a United States officer, an Immigration Department officer, a United States Intelligence Department officer, and a Portland, Oregon, policeman. This man offered me the sum of One Thousand Dollars to make an affidavit which would state that Harry Bridges was a member of the Communist Party, and would state that said Harry Bridges was present at certain meetings of the Communist Party at which I was present. He explained that he wanted me so to testify before a United States District Court and that the affidavit would not be produced as long as I told the same story. I refused because to my best knowledge and belief Harry Bridges is not a Communist or a member of the Communist Party, nor was he at any such meetings where I was present. Later this man returned and offered me Two Thousand Dollars to make such an affidavit. I likewise refused this offer. About a week ago another man called upon me, representing himself to be the secretary of an organization called the Oregon Associated Chambers of Commerce, and offered me first the sum of Five Thousand Dollars to give such false testimony and to make such a false affidavit. Later he indicated that he would be willing to pay Ten Thousand Dollars for this service, as he called it; and when this was refused, he told me to name my own price. When I informed him that I was not interested in his offer, regardless of the amount, he states that he [they] would be back and that I [he hoped I] would change my mind.

(Sgd.) JOHN L. LEECH.

Subscribed and sworn to before me this 26th day of July 1937.

[NOTARY'S SEAL]

Spencer Austrian,
Notary Public in and for said County and State.

APPENDIX VI

THE HANDWRITING EXPERTS

E. O. Heinrich was an expert employed by counsel for the alien. He is a consulting criminologist who has been engaged for the last 30 years as an examiner of suspected and disputed writings. Heinrich's career has included occupying the position of assistant instructor in chemistry and physics, chief of police of Alameda, city manager of Boulder, and visiting lecturer in the University of California. He has his own physical and chemical laboratory, and has been employed as an expert by the Government and by private parties in a great many cases, some of moment and some less of moment than of notoriety.

Heinrich was asked by counsel for the alien to render an opinion as to whether the interlineations on the so-called Leech affidavit and the signature to that affidavit were in the handwriting of Leech, and also whether he could determine whether or not they had been written against the side of an automobile. He was supplied with a photostatic copy of the Leech affidavit and with several exemplars, i. e., writings admittedly in the handwriting of Leech. These exemplars were 10 in number. There were declarations of candidacy executed by Leech in 1934 and 1936. Four were signatures of Leech executed at this hearing and three were various sentences written by Leech at this hearing at the suggestion of the Examiner. All the exemplars were supplied in the form of photostats.

Heinrich's method of examination was to make enlarged photographs of the exemplars and the questioned writing. With the aid of them he examined the quality of the writing as reflected in the writing speed and the manner in which the pen is operated; comparing curving movements and the character of the edge of the lines to determine whether they were clear cut and continuous or broken. He then examined the manner in which the pen was held, with reference to the line of writing, the shading emphasis on the down strokes and up strokes in the writing and the pen pressure as exhibited by the depth of the lines and also, after microscopic comparison with the originals, by the depth of the furrow left in the paper. His examination of the many individual and particularistic characteristics of the various writings was extensive and thorough. He also analyzed the degree of consistency that existed between the slope of the questioned writing and the slope of the exemplars. Angular tests on the slope of the various letters were also made and the results of all these tests were detailed by him at length.

Upon the basis of this exhaustive examination, Heinrich expressed a very definite opinion that both the interlineations and the signature of the Leech affidavit were in the handwriting of Leech. Also after a microscopic examination of the ink, Heinrich testified that in his

opinion the same ink was used for both the interlineations and the signature. Finally Heinrich testified that he could find no evidence upon which he could either affirm or deny that the writing on this affidavit had been executed with the paper in a vertical position. Nothing in the cross-examination of Heinrich cast doubt upon the accuracy of his observations or the validity of his methods.

Opposing Heinrich was Charles H. Stone, the Government's expert. He reached the opinion that the signature in the Leech statement was by Leech but that the interlineations were in the handwriting of some individual other than Leech or Austrian. Stone is employed by the State Bureau of Criminal Investigation and for the past 12 years has concerned himself with handwriting problems. He also has testified as an expert in many cases.

Stone was furnished with a photostatic copy of the Leech affidavit and photostatic copies of two exemplars, one a signature of Leech executed at the hearing and the other some writing executed by Leech also at this hearing. These were examined by Stone for an hour in the immigration offices at Sacramento. He employed only his spectacles and his pocket magnifier. At the end of the hour Stone expressed his opinion to the immigration inspector. This opinion was the same that he expressed upon the witness stand. It was in substance that the signature on the Leech affidavit was genuine; that the interlineations were all in the handwriting of the same person, and that these interlineations were neither in the handwriting of Leech nor of Austrian.

Stone's opinion is worthless. It was based upon a cursory examination with too few exemplars. It rested upon differences in certain minor characteristics between the interlineations and the two exemplars but these differences ceased to be differences when compared with the characteristics of Leech's handwriting in the exemplars that had not been submitted to him. He made no measurements, failed to recognize obvious similarities that were even apparent to an untutored eye. He made no photographic enlargements in order to aid his examination despite the fact that the suspected writings—the interlineations—were admittedly smaller than normal. Stone's integrity is, of course, not in question but the superficiality of his methods, his inaccuracy in observation, rendered his opinion useless.

Contrariwise Heinrich's opinion is compelling. Though admittedly the examination and analysis of handwriting is not an exact science, based as it is upon mathematical probabilities, Heinrich's testimony convinced that the possibility that the interlineations had been written by someone other than Leech was infinitesimal. One must therefore necessarily conclude that the interlineations and the signature in the Leech affidavit were written by Leech.

APPENDIX VII

501 BAKER STREET

The testimony of a number of witnesses establishes that the Chateau Pierre at 501 Baker Street was a meeting place for Communists during 1934. The Chateau was outwardly a restaurant with a bar in the basement. Both restaurant and bar seemed to have been frequented by the general public and no claim is made that every person who attended the restaurant and the bar was a Communist. The Chateau was run by Pierre Margolis and Sam Goodwin. His son was Arthur Margolis alias Scott alias Kent, the undercover operator who was a Communist and was later convicted of burglary. He and his wife, Norma Perry, lived with Pierre Margolis on the second floor. On the top floor was a room which was said to be the place where Communist meetings were held. Two admitted Communists, Ida Rothstein and Minnie Carson, were employed at the Chateau as pantry girls or waitresses in 1934. Among other frequent guests who were admitted Communists were Elaine Black and Leo Gallagher.

Bridges testified that, though he had been asked up to 501 Baker Street by Norma Perry and others, he had never been there. Four witnesses testified that they had seen him in the bar. Admitting the accuracy of their testimony, that testimony does not prove that Bridges was a Communist.¹ It does, however, go to his general credibility. But there is considerable doubt as to the accuracy of the observations of these witnesses.

Joseph W. Marcus said that he went to work as catering manager at the chateau in late June or early July of 1934. He stated that he saw Bridges three or four times a week at the bar downstairs. He said that Bridges was commonly the invited guest of Norma Perry and that he had seen Bridges sitting with Arthur Scott, Norma, and Sam Goodwin but never with Leo Gallagher. Marcus was not cross-examined.

John A. Kessler was a supervising chef at the chateau from August of 1934 to March of 1935. He worked mainly on the first floor. He stated that both Ida Rothstein and Minnie Carson were employed at the chateau as long as he had been employed, but when asked to identify them from pictures submitted to him by Government counsel identified a picture of Elaine Black as "Carson" and a picture of Ida Rothstein as "Minnie." He said he had seen Leo Gallagher at the chateau and that he had seen Bridges there four times in 1934, twice at the bar talking to Goodwin and twice going upstairs to a meeting. Bridges had been pointed out to him by the bartender. He said he had seen Harry Jackson there eight times going up to meetings and that he had seen Elaine Black there. He also added

¹ The testimony of the four witnesses is contradictory on this minor point.

² This is inferentially admitted by the Government in its brief upon the facts.

that Minnie Carson and Ida Rothstein attended these meetings. He could not recall ever having met Joseph Marcus.

Cross-examination of Kessler brought forth unbelievable and truly ridiculous contradictions. Asked who attended the meetings upstairs, he said that Minnie and Ida and Bridges and Gallagher were all those he could name. He then added Jackson at the suggestion of counsel; then a moment later added Goodwin, then added Pierre Margolis. Asked how he knew who Gallagher and Jackson were, he said that they had been pointed out to him by one of the waitresses. He said that Jackson had not been pointed out by Ida because "she only pointed out two or three." A moment later he said Ida had pointed out Jackson, a moment thereafter said it had not been Ida, and then again said he was certain that it had been Ida. He then became confused as to who pointed out Gallagher to him, stating on this occasion that it was the bartender.

Asked how he could identify these people, he stated that he had done so from photographs submitted to him at the immigration office. After stating that Elaine Black's name was familiar but that he didn't know her, he then said he had seen her there. He stated four or five pictures had been submitted to him by the immigration inspectors, that he had immediately picked out the two waitresses; and as to the third the following colloquy deserves quotation:

Q. What about the third one? What did you say?

A. I said, "I have seen that fellow."

Q. Fellow?

A. Fellow.

Q. And somebody told you it was Elaine Black?

A. That is right.

He then went further to add that he had picked out Leo Gallagher and Harry Jackson also from the "four or five" pictures that had been shown him.

At this point the Examiner showed Kessler a series of pictures of these individuals asking him to identify them. He was unable to identify Jackson; he identified another alleged Communist, Louise Todd, as working there; he identified Minnie Carson first as working there but quickly changed his answer to state that she only came there as a guest. He did, however, correctly identify a newspaper photograph of Leo Gallagher.

Later Kessler answered as follows:

Q. Was any other important person ever pointed out to you at 501 Baker, other than Mr. Bridges, for instance?

A. No.

Then again as follows:

Q. Do you recall any person was ever pointed out to you at Pierre's Chateau, at 501 Baker Street, other than Harry Bridges?

A. Just this Gallagher.

Once again as follows:

Q. Gallagher and Bridges were the only two people that were pointed out to you, is that right?

A. Yes.

Q. That is why you remember their names?

A. Yes.

Q. There is no evidence at all that Louise Todd ever worked there.

Q. Did you set your mind on identifying these pictures when Dean Landis showed you some pictures, and when Mr. Shoemaker showed you some pictures?

A. At that time I did.

Q. Here this afternoon?

A. Yes.

Q. You really set your mind on those things?

A. I try to; yes.

Q. I mean, you set your mind on them and tried hard so you wouldn't make any mistakes?

A. I didn't want to make any mistakes; no.

Q. I say, you did set your mind to that, didn't you?

A. Yes.

With reference to his visit to the immigration office on April 18, 1938, Kessler first placed Government officials Phelan and Bonham there. On redirect examination he added Farelly to the group, keeping Bonham there and finally adding Shoemaker to the group. It is plain from the examination that Government counsel sought to get Kessler to correct statements with reference to the presence of Bonham and Shoemaker, for the affidavit that was taken records only the presence of Phelan, Farelly, and a stenographer. Government counsel, however, did not choose further to enlighten the Examiner on this point.

Kessler's affidavits of April 18, 1938, and his supplementary affidavit of April 21, 1938, further contradict his oral statements on the stand. They state that Ida Rothstein was employed at the Chateau when Kessler first went there "but she did not stay very long because she got married"; that Ida Rothstein never attended any of the meetings upstairs; that he had never actually seen Bridges going upstairs to a meeting but had seen him talking to Goodwin; that he had only seen Jackson there twice. The affidavit illustrates that the process employed with reference to the identification of witnesses from photographs was suggestive to a high degree—a practice careful investigating officers conscientiously eschew.

John Mickleson was employed as bartender at 301 Baker Street from August to December of 1934. He recalled Ida and Minnie as having worked there. He stated that he saw Bridges on one occasion "for a few seconds" in the bar and that he knew it was Bridges because Goodwin had pointed him out. Mickleson said Bridges "wasn't doing a thing" on that occasion. He did not recall Kessler as having worked there nor had he ever seen Gallagher there.

On cross-examination much confusion attended the witness' efforts to describe the methods employed by the Government in its preliminary investigation in getting Mickleson to identify Bridges. Mickleson first stated a number of pictures were shown him, among which Bridges' picture was not included, and that he could not identify any of them. He then stated that only one picture had been shown to him. His confusion in this regard led the examiner to suggest what might have been the method of procedure, namely, that after the first series of pictures had been shown to him, and after he had replied "Harry Bridges" to the question of whether he had ever seen any Communists at the chateau, the picture of Bridges had been shown and he had then identified that. Mickleson readily and gratefully accepted the examiner's suggestion as to what had happened.

* Kessler still insisted that Shoemaker and Bonham were at the April 18 interview on re-cross-examination.

T. A. supplementary affidavit adds:

"Q. But you did see Bridges there?

"A. Yes; about three or four times.

"Q. Did you know then who he was?

"A. No; I didn't.

"Q. In just what place did you see him there?

"A. A couple of times in the hall and a couple of times down below in the bar talking to Goodwin.

"Q. Did you ever see him on the upper floors, or going upstairs?

"A. No; but he must have gone upstairs because there was no one in there then.

"Q. Would this be after the place had closed?

"A. No; a couple of times he was there just before lunchtime, and a couple of times during the supper hours.

"Q. Why do you think he must have gone upstairs on those occasions?

"A. Because when he was admitted to the place Mr. Goodwin was upstairs in his office and he usually asked from the girl or whoever opened the door, 'Is Mr. Goodwin in?' and then he proceeded to go upstairs."

Mickleson also stated that on this occasion he was positive that he had signed a statement at the immigration office,⁹ a fact that counsel for the Government denied.¹⁰ Counsel for the alien asked that this statement be produced but Government counsel declined. Though the examiner had authority to order its production, he declined because he believed that to do so would only encumber the record. It was patent to the examiner that Mickleson was responsive to any suggestion that he believed friendly and that his testimony as to the fleeting glance that he had of Bridges 5 years ago was too untrustworthy for serious consideration.

Cleo Zanazzi was employed as a waitress at 501 Baker Street from August of 1934 to February of 1936, working mainly in the basement. Of her fellow employees she could remember Kessler, Marcus, Mickleson, & Minnie Hensley¹¹ and a waitress named Ida. She said she saw Bridges once in the bar and knew it was Bridges because Goodwin pointed him out to her.¹² She said that she had also caught a "fleeting glance" of Gallagher. The witness was positive in her identification because she said she "never forgot a face."

Cross-examination developed little further information. On being shown pictures of Ida Rothstein, Minnie Carson, Elaine Black, and Harry Jackson, she stated she had no recollection of seeing any of these individuals. On being shown Gallagher's picture she said the face looked familiar to her but she could not say that she had seen him there. She also said that she had possibly seen Louise Todd but was not sure of it.

One further witness, William H. Penoat, hardly deserves mention. He was active in later legal proceedings concerned with the taking over of the premises at 501 Baker Street from Margolis. He stated that he heard from people, whose names he could not remember and whom he could not identify, that Bridges had been a visitor at Chateau Pierre.

It is impossible to regard this testimony as seriously shaking the general credibility that otherwise may be deemed to attach to Bridges. The testimony of the four witnesses viewed as a group is contradictory;¹³ the testimony of three of them viewed individually suffers from the same fault. Great care must be taken with casual identification testimony, particularly when it concerns an individual whose doings and physiognomy have been almost a daily concern

⁹"A. * * * After we went into the other room with the stenographer there were no pictures shown, but only a fountain pen for me to sign the statement.

^Q You signed the statement?

^A I signed that statement.

¹⁰Mr. GROSSMAN. Mr. Shoemaker, do you have the statement there?

^{Mr. SHOEMAKER} I don't have any statement that he signed.

^{Mr. GLADSTEIN} He said he did.

^{Mr. GROSSMAN} He said he did.

^{Mr. SHOEMAKER} He didn't sign any statement.

¹¹The witness identified Minnie Hensley as a cashier. Kessler had stated that Minnie Carson was the cashier.

¹²The length of time during which she saw him is set forth in the following answer:

¹³A. I just saw him a few minutes because I was too busy to pay any attention to anybody at the time.

Also by the following:

^Q How long did you get a chance to observe Mr. Bridges?

^A Just a few minutes; not even that. I went on with my work.

¹⁴Compare, for example, Marcus' testimony that he had seen Bridges three or four times a week in the bar downstairs with Mickleson's statement that he had only seen Bridges once. Marcus' duties kept him normally upstairs, whereas Mickleson was the bartender.

of the public press and especially when that identification testimony goes back some 5 years in point of time. (See Moore, *Treatise on Facts*, c. 25.) Furthermore, in these cases the normal safeguards employed to avoid the dangers of suggesting the answers to potential witnesses do not seem to have been used in the preliminary examinations.¹⁷ (See Wigmore, *Principles of Judicial Proof*, sec. 208.) It thus seems best completely to disregard this testimony concerning Bridges' having been seen at the bar downstairs in the Chateau Pierre.

¹⁷ Contrast, for example, the inability of Kessler and Zanazzi to identify their employees with their ability to identify a casual guest.

EXHIBIT "J"

MEMORANDUM FOR THE COMMISSIONER
OF IMMIGRATION AND NATURALIZA-
TION

Pursuant to your instructions, we have reviewed various letters addressed to the Secretary of Labor, yourself, or other officers of the Immigration and Naturalization Service, during the period from December 1935 to June 1936 by Mr. H. L. Knowles, Chairman, Subversive Activities Committee, Department of California, the American Legion, and submit the following summary and report:

The first of the letters in this series is dated December 5, 1935, and addressed to yourself. In it Mr. Knowles protests against the transfer from the Alameda County Jail to the detention barracks at Angel Island in San Francisco Bay of Isaac Finkelstein and George Geoffrein, two aliens against whom deportation proceedings were pending on the ground that they were in the U. S. in violation of law in that they were members of an organization (the Communist Party), advocating the overthrow of the government by force or violence.

It is not clear from the record why these two aliens were confined in the Alameda County jail in the first place, as it is the established practice to make use of our own detention barracks in all cases where such barracks are available. Economy and convenience would dictate this practice if there were no other reasons for it. In the case of Finkelstein and Geoffrien it was charged by the International

Exhibit "J"—(Continued.)

Labor Defense that these prisoners were being supplied in the Alameda County jail with only one meal a day. This charge was not investigated, but the District Director at San Francisco was instructed to transfer the two men to Angel Island and arrange for their segregation there, if considered necessary. Mr. Knowles was advised in reply to his letter:

"It is not the practice of this Service to detain aliens who have been made the subject of deportation proceedings in local or county jails where the Government maintains adequate detention quarters, as is the case at San Francisco. There appearing to be no sufficient reason for making an exception in the two cases under discussion, the District Director at San Francisco was instructed by telegraph on December 4th to transfer the aliens from Alameda County mail to Angel Island for detention pending final termination of their cases, if during such time they were not released under bond."

Mr. Knowles professed to regard this case as proving the inclination of the Immigration and Naturalization Service to "coddle" Communists. He apparently considers that aliens accused of Communistic activities and held for investigation should be treated with the utmost severity, and that complaints made by them or on their behalf should be ignored. This is not the policy of the Immigration and Naturalization Service, which endeavors to furnish as little justification as possible for representations that these deportees are political martyrs.

Exhibit "J"—(Continued.)

The tone of Mr. Knowles' letter on this case and of his subsequent communications is illustrated by the following extracts:

"The circumstances in connection with these two acknowledged Communists present such glaring evidence of the seditious activities of the Communist Party as to leave no room for doubt as to the purposes of that body and to leave no excuse whatever for intercession or delays in connection with the immediate deportation of these individuals from the U. S. Inasmuch as your department should possess all of the facts in connection with these cases, I am not going into details. However, I am constrained to tell you that the American [49] Legion cannot longer look with complacency upon the apparent attitude of the Bureau of Immigration as concerns its catering to and coddling of alien Communists. If the Department of Labor cannot find ways and means of making existing statute law effective, then methods will have to be found for some other organization to ensure law enforcement."

Unfortunately it is impossible to proceed in these cases as summarily as Mr. Knowles might wish. In the case of Isaac Finkelstein the first hearings were held on Oct. 25, 1935, warrant of arrest was requested on November 1, 1935; the Board of Review considered the case and recommended deportation Jan. 25, 1936, and deportation warrant was issued February 14, 1936. However, although Finkelstein furnished detailed information concerning his

Exhibit "J"—(Continued.)

parentage and the date and place of his birth in Poland, he had no documentary evidence of citizenship, and efforts to secure from the Government of Poland, a passport for his return to that country, have thus far proved unavailing. Moreover, Finkelstein's attorney apparently intends to carry the case into the courts on a writ of habeas corpus, which may involve further delay. It may be many months before Finkelstein's attorney exhausts all possibilities of appeal, and even then, it may be impossible to proceed with his deportation if the Government of Poland declines to receive him. The case of George Goeffrein is still pending. If and when an order for his deportation is issued, he too can carry his case into the courts by applying for a writ of habeas corpus, and, if he loses his final appeal, passport difficulties may be encountered as in the case of Finkelstein.

The delay in the deportation of these two aliens which is by no means unusual under existing law and procedure, and still more, the possible failure to deport them at all, will, in all probability, be ascribed by Mr. Knowles to the indifference, laxity or malfeasance of the Department of Labor, although every possible effort consonant with the law may have been made to expel them from the country.

The second letter in this series, dated December 18, 1935, addressed to the Commissioner of Immigration and Naturalization, carried as an enclosure an issue of the "news Letter and Wasp", in which

Exhibit "J"—(Continued.)

Joseph P. Ryan, President of the ILA and Paul Sharrenberg, sec. of the California State Federation of Labor, were quoted as denouncing Harry Bridges as a Communist. Mr. Knowles concluded his letter with these words:

"As an American citizen and as State Chairman of the Subversive Activities Commission, I now call upon you to issue the necessary instructions to the end that an immediate and thorough investigation be made of the citizenship status of Harry Bridges, to be followed by such action as your oath of office requires you to take."

In subsequent letters Mr. Knowles reverts again and again to the case of Harry Bridges, leader of the S. F. Waterfront strike and the general strike of 1934, whose deportation was then and later urgently sought by the interests which he had antagonized. His record has been exhaustively investigated, with results which may be summarized as follows:

Harry Bridges, a native of Australia, and a British subject, was legally admitted to the U. S. at the port of S. F., California, on April 12, 1920, and, so far as our record show, has resided in this country continuously since that time. He filed declarations of intention to become an American citizen in New Orleans in 1921 and in S. F. in 1928, both of which he allowed to expire. A third declaration filed in S. F. is now valid. [50]

In connection with Bridges and the District Di-

Exhibit "J"—(Continued.)

rector, Immigration and Naturalization Service, at S. F., reported under date of February 2, 1935:

"The investigation of the alien referred to above has failed to show that he is in any manner connected with the Communist Party, or with any radical organization.

"The Crime Prevention detail of the local police department, comprising eleven officers and the Captain of Police in charge, one of whose chief duties is to investigate activities of radicals and of leaders of the Communist Party in particular, have likewise been unable to date to obtain any evidence that the alien has ever been a member of the Communist Party or in any manner directly affiliated therewith, or a member of any radical organization.

"In discharging the duties of my detail at the city prison in investigations of aliens arrested and charged with crime, and of aliens arrested and charged with Communistic or radical activities, I have maintained a very close contact with the Crime Prevention Detail from a period long antedating the general strike in S. F. until the present date. I, therefore, know that the officers of said detail have made constant effort to obtain evidence that would in any way connect the alien with radical organizations, or show his membership therein, but with the results heretofore set forth."

It was reported to the District Director at S. F. that Bridges was implicated in the criminal destruction of a railroad bridge in Australia prior to his arrival in the U. S. and that he had a criminal

Exhibit "J"—(Continued.)

record in Australia. If true, this would make him deportable. The report was investigated at the request of this service by the American Consul in Melbourne, Australia, who, under date of November 5, 1934, reported that the police authorities at Melbourne had no record of Bridges.

It was also reported that Harry Bridges was identical with one Harold Harvey, a known Communist, whose activities were referred to in the Fish Committee hearings, but when Bridges' thumbprint, obtained from seamen's identification cards was compared with the corresponding thumbprint of Harold Harvey, on file in the Bureau of Identification of the New Orleans Police Department, it was established that Harold Harvey and Harry Bridges were two entirely different individuals.

A report that Harry Bridges had recently visited Canada was also carefully investigated, as he would be deportable if he had reentered the U. S. without examination. No evidence of this alleged visit to Canada was found, but it was discovered that he had apparently been impersonated there on one occasion by an individual bearing some slight resemblance to Bridges, who sought to cash in on the latter's notoriety.

In short, whenever any legal ground for the deportation of Bridges has been brought to the attention of the Department of Labor, it has been investigated but, invariably, it has been found that he was in the clear, and that his status as an immigrant was entirely regular.

Exhibit "J"—(Continued.)

Following the receipt of Mr. Knowles' letter of December 18, 1935, quoting Paul Sharrenberg, sec., of the California State Federation of Labor, as charging in a public address that Bridges was a Communist, Mr. Sharrenberg was requested to submit any evidence he might have to support this charge. He stated that he had no evidence, but spoke from information and belief. [51]

Under date of Dec. 29, 1935, Mr. Knowles wrote to the Commissioner of Immigration and Naturalization, transmitting a copy of "The American Citizen" for November 22, 1935, and clippings from the San Francisco Examiner of December 22, 1935, and December 24, 1935, relating to "local radical aliens" and claiming to "definitely link Harry Bridges with subversive activities."

In an effort to explain to Mr. Knowles and to other officers of the American Legion clearly and fully the activities of the Immigration and Naturalization Service in deportation cases and the limitations of the law, a conference was arranged at S. F. on January 9, 1936, between Mr. Knowles and other members of the Legion, and District Commissioner Cahill and other officials of the Immigration and Naturalization Service. At this conference all of the questions previously raised by Mr. Knowles were discussed and full information was furnished concerning the action taken by the Service. Reporting on this conference, the District Commissioner wrote:

"The gentlemen from the American Legion were

Exhibit "J"—(Continued.)

apparently satisfied that we are doing everything we possibly can according to the law. We assured them that we will investigate any case they refer to us, if they will furnish us with definite and reliable information. The result of the meeting was an understanding on both sides * * *. I am free to state that, for the time being at least they are convinced that the Immigration and Naturalization Service in this District is efficient and alert and endeavoring to enforce the law."

Commissioner Cahill was mistaken in his belief that Mr. Knowles was satisfied, even temporarily, for on Jan. 13, 1936, that gentleman addressed a letter to the Commissioner of Immigration and Nat. in which he renewed his protests against the transfer of Geoffrein and Finkelstein from the Alameda County jail to Angel Island, and reverting to the Bridges case said:

"Pending further developments I have withheld publicity in the Bridges matter. However, my patience, as well as that of several hundred thousand Legionnaires has become exhausted. Action is in order, and unless it is forthcoming immediately, I shall not only feel at liberty to give national publicity to existing conditions, but I shall feel it to be my duty as an American Citizen."

This is tantamount to a declaration that, although the Dept. of Labor, after exhaustive investigation, had been unable to discover any legal grounds for the deportation of Bridges, as Mr. Knowles had

Exhibit "J"—(Continued.)

been informed, deportation proceedings should nevertheless be started.

Mr. Knowles also stated in this letter that "It is my firm conviction, as well as that of my associates that the activities of your local officials are curbed by the restrictions placed upon them by the restrictions placed upon them by you or by the Secretary of Labor." He listed six reasons for this conviction. The points involved are raised again in subsequent letters and will be dealt with later.

In a letter to the Secretary of Labor dated Feb. 3, 1936, Mr. Knowles complained that letters addressed by him to the District Director at S. F. "remained unanswered, if not ignored." Two days later, on Feb. 5th, he again wrote to the Sec. of Labor to say that this was an inadvertence and that the District Director, Mr. Haff, never at any time refused to answer any communication addressed to him. He intimated that it was the District Commissioner who failed to reply to his communications. Commenting on this, the district commissioner, Mr. Cahill, stated that he had answered the only two letters addressed to him by Mr. Knowles. Pertaining to this controversy, [52] there is in the files a copy of a letter addressed to Mr. Cahill by Mr. Knowles, stating; " * * * * * Since you have deemed it expedient to refer all matters to the Central Office of the Dept. of Labor at Washington, D. C. we shall in future be pleased to address all of our correspondence to the Sec. of Labor and the

Exhibit "J"—(Continued.)

Commissioner of Immigration and Nat. and not to subordinates in the Department."

Various letters addressed by Mr. Knowles to the Central Office during the past six months have, in fact, remained unanswered, since it has become perfectly apparent that he did not want either information or explanations, but was engaged merely in a game of heckling.

In a letter dated Feb. 8, 1936, addressed to the Commissioner of Immigration and Nat., Mr. Knowles raised the question of deportations to Russia, referring to news dispatch published two years before to the effect that a former Assistant Sec. of Labor

"had departed for Russia for the announced purpose of approving some agreement with that country providing the issue of passports for the return to Russia of Russians ordered deported from the U. S. We understood that * * * * no such trip was ever contemplated by the Dept. of Labor, and, further, that this report was disseminated apparently with the deliberate intention to be misleading and solely for the purpose of influencing the actions of the American Legion and that might in any way cast reflections upon the Administration."

The facts concerning these Russian cases are perfectly well known. They were discussed at some length in the report of the Commissioner of Imm. and Nat. for the fiscal year 1935, published as an appendix to the Annual Report of the Sec. of La-

Exhibit "J"—(Continued.)

bor for that year (Pages 80-81). The following paragraphs are quoted from that report:

"The deportation of aliens is no longer the simple procedure which obtained in earlier days. The governments of various countries to which deportations are made have adopted more stringent rules relative to the acceptance of their subjects or alleged subjects, with the result that it has become necessary in most instances to present virtually absolute proof that an alien held for deportation is a citizen or subject of the country to which removal is directed.

"Attempts to effect deportation necessarily fail in the case of large number of aliens who refuse to furnish information from which citizenship can be established or are held by the governments of which they were subjects to have expatriated themselves in any way or another.

"A most conspicuous example is afforded by subjects of the former Russian Empire, who were born in territory now included in countries or areas formerly a part of that Empire, but have not complied with the requirements necessary to preserve their citizenship, and therefore will not be accepted under deportation orders by the governments established in their native lands. In addition to these are others who were born in Russian Territory now included in the USSR, and according to the nationality laws of the Soviet union have not taken steps to acquire Soviet citizenship. These various cases represent an accumulation which be-

Exhibit "J"—(Continued.)

gan during the World War, when deportations to many European countries were necessarily suspended, and include also cases in which deportation was ordered during the long period when there was no diplomatic relations between the US and the Soviet Government. During the period of non-recognition Soviet Union passports, essential to deportation, could not be applied for, and [53] therefore cases were necessarily held in abeyance. Due to the refusal of the newly formed countries to accept deportees who were born within their borders, it has become necessary to direct the deportation of all subjects of old Russia to the Soviet Union, and there is now an accumulation of approximately 1,110 cases in which deportation has been so directed.

"Efforts to secure needed passport or travel documents from representatives of the Soviet Union in the U. S. have disclosed that these representatives are not authorized to issue the needed documents. The only alternative was to institute negotiations with the Soviet Government, and such negotiations are now underway through the customary channels."

It seems unnecessary to comment on Mr. Knowles gratuitous suggestions that a news dispatch concerning Russia deportation was inspired by the Dept. of Labor with the deliberate intention to be misleading and solely for the purpose of influencing the actions of the American Legion except to say that it is typical of the tone of his entire correspondence with this Department.

Exhibit "J"—(Continued:)

In a letter dated Feb. 17, 1936, addressed to the Commissioner of Immigration and Nat., Mr. Knowles takes exception to an opinion of the Solicitor of the Dept. of Labor holding that membership in certain left wing labor organizations does not, in itself, constitute grounds for the institution of deportation proceedings, although members of such organizations who themselves believe in or advocate, or who are members of organizations which believe in or advocate, the overthrow of the Government of the US by force or violence, are subject to the institution of deportation proceedings. The organizations specifically covered by this opinion were:

National Miners Union, Marine Workers Industrial Union, Tampa Tobacco Workers Industrial Union, National Textile Workers, Metal Workers Industrial Union, International Labor Defense, Trade Union Unity League.

After studying the history of these organizations the Solicitor of the Dept. of Labor, in the opinion in question, found that they had never resorted to any physical or verbal attack upon the American political structure, that throughout the life of these organizations they had been an industrial force rather than a political one, and that there was no evidence that the organizations listed had ever executed or advocated policies aimed at the overthrow of the Government of the U. S. The Solicitor further stated as follows:

"Membership in each such union is avowedly solicited only from those working in a particular industry. Activities are directed almost exclusively

Exhibit "J"—(Continued.)

in economic channels. Antagonism, if any is promoted, is toward the older and more conservative unions, but not toward democratic government. For the U. S. to deport a man merely for membership in such a union is to deport a man for seeking to overthrow conservative union domination, not for seeking to overthrow the Government of the U. S.

Mr. Knowles may, of course, take issue with this interpretation of the law. Nevertheless, the Solicitor is the authorized legal advisor of the Sec. of Labor, and administrative officers of the Dept. must be governed by his opinion.

In a letter dated March 19, 1936, addressed to the Commissioner of Immi. and Nat. Mr. Knowles stated: [54]

"My attention has been directed to the fact that one George Lansbury, said to be a leader of the Independent Labor Party in the British Parliament and an ardent disciple of Lenin, is to arrive in America sometime during the month of April, 1936. * * * I therefore, in behalf of the members of the American Legion, whose loyalty cannot be questioned, specifically demand of you that you refuse entrance to this country to Mr. Lansbury * * * You have ample time to fortify yourself with this man's record, and if he is admitted in the face of this protest, national publicity will be given to your dereliction of duty."

Persons intending to visit the U. S. first have to apply to an American Consul abroad for a visa, which is issued only if there appears to be no legal

Exhibit "J"—(Continued.)

bar to admission. Hence Mr. Knowles' peremptory demand should properly have been addressed to the Sec. of State, except perhaps that even Mr. Knowles might not have felt himself justified in issuing instructions to the Sec. of State.

Mr. Lansbury, a former member of the British Government and one of the most distinguished and respected men in British public life, according to the British "Who's who" and the "Political Handbook of the World", published by Harper & Bros. for the Council on Foreign Relations, Inc., is not a member of the Independent Labor Party but is a leader of the Labor Party, which has no Communistic affiliations, and which, under Ramsay MacDonald, was twice responsible for the government of Great Britain. He has been a member of parliament since 1922, held office when the Labor Party was in power, served as a member of a Royal commission, and was apparently appointed to the Privy Council. There were, of course, no legal grounds for barring him from the U. S. He was granted a visa by the Consular authorities in England and made his visit to the U. S. in due course.

In a letter to the Commissioner of Imm. and Nat. dated March 21, 1936, Mr. Knowles demanded the deportation of Marcus Graham, editor of "Man—A Journal of the Anarchist Ideal and Movement", published in San Francisco. He called attention in this letter to the fact that Marcus Graham was ordered deported some years ago and concluded with the statement: "There is no reason in sight to ac-

Exhibit "J"—(Continued.)

count for the laxity of the Dept. of Labor in this instance."

The records of this Service show that a warrant was issued for the deportation of Marcus Graham, alias Robert Parsons, under date of Nov. 15, 1930. At the time of his hearing in deportation proceedings Graham refused to answer questions except to say that he was born in Montreal, Canada. The Canadian authorities refused permission for Graham's removal to that country, as no record could be found of his birth in Montreal or elsewhere in the Dominion.

This is one of many cases, including the Russian cases dealt with above, in which deportation is impossible because of lack of proof as to citizenship in the country to which deportation is proposed, and not due to any laxity in the Dept. of Labor as Mr. Knowles alleges.

In a letter to the commissioner of Imm. and Nat. of March 21, 1936, Mr. Knowles also protested against a statement by the Commissioner in support of the Korr-Coolidge Bill, he said inter alia:

"At such a time as this, when every citizen of America is straining under the burden of taxation, the great portion of which is being spent of wasted on 'relief' projects, and when aliens are not only evading this burden of taxation but are actually benefiting by the proceeds thereof, it is most unseemly for an official of the government openly to advocate the enactment of legislation that cannot but increase the burden on Americans." [55]

Exhibit "J"—(Continued:)

The arguments for and against the Kerr-Coöldige Bill have been presented at great length at hearings before Committees of Congress, in official reports and in the press. They cannot be summarized here to any advantage. It may be stated, however, that Mr. Knowles' charge that the enactment of this bill would increase the burden on Americans is without any vestige of foundation. The exact opposite is true: The bill proposes to allow certain aliens of good character who are now deportable to remain in the U.S. and thereby relieve the Government of expense of providing for their dependents. It would moreover, permit the deportation of three times as many alien criminals as are deportable under existing law.

On April 7, 1936, Mr. Knowles addressed a letter to the Commissioner of Immi. and Nat., transmitting to the Commissioner a copy of the "Crockett Signal" containing a report of a speech delivered by Harry Bridges and of an interview with Bridges. On April 15, 1936, he forwarded an affidavit by Carl Stoffregen, publisher of the "Crockett Signal", embodying his version of a conversation with Bridges. Knowles contended that this affidavit and the other material submitted was sufficient basis for instituting deportation proceedings against Bridges. The affidavit and the material in question were referred to the Acting Solicitor of the Department of Labor, who recommended against the institution of proceedings, expressing the opinion that:

Exhibit "J"—(Continued.)

"It is highly probable that a Federal Court would reject as capricious and without basis your finding on the evidence submitted that Bridges came within the statute cited, were such a course adopted."

The opinion, moreover, was expressed by other competent legal officers of the Dept. that, instead of serving the ends sought by Mr. Knowles if deportation proceedings were instituted on the evidence submitted by him it would, in all probability, give Bridges the opportunity of conclusively demonstrating in court that he is not subject to deportation as a person who believes in or advocates the overthrow of the Government by force or violence.

In a press release enclosed with a letter dated April 16th, Mr. Knowles, among other things, advert's to the objection made in his letter to the Commissioner of Immi. and Nat. dated Jan. 13, 1936, to "closing all deportation records to the public which naturally prevents a check by any organization or individual on the operation of the Departments." As to this objection, it may be stated that the regulation with reference to the examination by the public of the records of the Immi. and Nat. Service has been in effect since 1915, and has remained in effect, without change, under succeeding administrations, including the present administration. The regulation is a reasonable one and its purpose is obvious as to hardly require explanation. To permit the records of the Immi. and Nat. Service to be thrown open for public inspection would not only be prejudicial to the Government and

Exhibit "J"—(Continued.)

the public interest, but would also create the utmost confusion in the offices where these records are kept and would also be most unfair to the interest of the individuals primarily concerned in such records. It would furthermore, create an unlimited opportunity for fraud and blackmail. The regulation under discussion requires that persons, who may have a personal material interest in the subject matter, may make application to the Secy. of Labor to examine such records, provided that the application is accompanied by an affidavit setting forth the interest of the applicant and showing the reason why and the purpose for which examination of the records is desired. It may be said, however, that such applications will not be granted only when, in the judgment of the Secretary, such action will not be prejudicial to the public or the Government interest.

[56]

In this so-called "press-release," Mr. Knowles again calls attention to his letter of Jan. 13, 1936, to the commissioner of Immig. and Nat., and refers to "the widely known apathy of the Immig. Dept. in the apprehension and deportation of alien communists." This allegation is without foundation in fact. Our records show the number of anarchists and kindred classes deported in the last eleven years to be as follows:

1925, 22; 1926, 4; 1927, 9; 1928, 1; 1929, 1; 1930, 1; 1931, 1; 1932, 51; 1933, 74; 1934, 20; 1935, 17; 1936, 47.

As indicated by the figures above quoted, there

Exhibit "J"—(Continued.)

has been no apathy on the part of the Immi. and Nat. Service "in the apprehension and deportation of alien Communists". In spite of Mr. Knowles insistence to the contrary, the Immi. and Nat. Service will continue to adhere to its policy of handling of these cases in a legal and orderly way, and will also continue to refuse to institute deportation in any case without proper legal evidence.

Under date of May 4, 1936, Mr. Knowles wrote to the Commissioner of Immi. and Nat. concerning two articles published in S. F. newspapers concerning the declaration of intention filed by Harry Bridges, containing statements which he said were obviously untrue. He attributed these statements to the District Commissioner at S. F. Neither statement was issued by this Service, although one is attributed by the reporter to the District Commissioner at S. F., who denies that he made the statement attributed to him.

Bridges' application for citizenship has been handled as that of any other applicant. Where it is to be granted or rejected will be determined by the court when and if his final petition has been filed. In a letter on this subject, addressed by Mr. Knowles to Mr. H. L. Chaillaux, Director of the National Americanism Commission of the American Legion, the statement is made that "we also have reasons to believe that Bridges has never at any time been questioned as to his beliefs by the Immi. and Nat. Service." The fact is that Bridges has been subjected to the usual examination and his sworn state-

Exhibit "J"—(Continued.)

ment he attaches himself to the American form of government is on file.

Under date of June 9, 1936, Mr. Knowles addressed a letter to the Commissioner of Immi. and Nat. with reference to an article in "The Open Forum", a periodical published by the American Civil Liberties Union, wherein a part of the record of examination in deportation proceedings against one Frank Kooi was quoted. Mr. Knowles wrote:

"The information contained in the article and the way it is presented with quotations marks shows that it must have been furnished by someone connected with the Immi. Service . . . We think that the present responsibility for giving out what transpired at the hearing should be made the subject of inquiry and discipline by your office."

In a letter dated June 25, 1936, Commissioner Cahill states that no one connected with his office furnished the information appearing in the published article. He states that the alien, Frank Koci, was represented in the deportation proceedings by attorneys Ausin Lewis and Ernest Besig. Attorney in immigration cases are held to be entitled to a copy of the record of hearing in such cases, as are attorneys in other judicial or administrative proceedings. A copy of the record of hearing in the Koci case was loaned for the preparation of a brief to Mr. Besig, who states that he furnished the information appearing in "The Open Forum" for June 9.

On June 10, 1936, Mr. Knowles wrote to the com-

Exhibit "J"—(Continued.)

missioner of Imm., [57] and Nat., saying that the American Legion "want to know the reason for the delay" in the deportation of Jack Warnick. He concluded the letter with the statement that he was inclined.

"to the belief that you personally are sympathetic to the cause of Communism an radical aliens, and I will say to you frankly that unless some immediate action is taken by your dept., both nationally and locally, in the fulfillment of your oath of office, efforts will be made by the American Legion to bring about a full Congressional investigation of the administration of your office."

Our records show that a warrant for the arrest of Jack Warnick in deportation proceedings was issued on Oct. 2, 1935, charging that he is a member of or affiliated with an organization proscribed by the Act of Oct. 16, 1918, as amended by the Act of June 5, 1920. A hearing was held under this warrant at San Francisco, on Oct. 4, 1935, and the record of the proceedings was forwarded to the Dept. in Mar. 1936. The record shows that Warnick has resided in the U. S. with the exception of a few short absences, since 1908 or 1909. He testified that he was born in Montreal, Canada, on Jan. 11, 1907. The matter of his return to Canada was taken up with the Canadian authorities, who reported under date of July 7, that no record could be found of the alien's birth in Montreal, and, therefore, a letter authorizing his return to Canada under deportation proceedings would not be issued.

Exhibit "J"—(Continued.)

This is the status of the case at the present time.

The numerous extract quoted from the letters of Mr. Knowles show that his attitude from beginning to end has been prejudiced and his language intemperate and over-bearing. He resorts constantly to threats and abuse. The majority of his letter are too abusive to merit the courtesy of a reply. Any answer that may be made to him will serve only to prolong a useless correspondence.

(Signed) W. W. BROWN,
 Legal Advisor.

THOMAS S. FINUCANE,

Member Board of Review.

JOSEPH SAVORETTI,
Chief Examiner, Legal
Branch. [58]

EXHIBIT "K"

Before the Attorney General
of the United States
Immigration and Naturalization Service.

Case No. 55973/217

In the Matter of
ALFRED RENTON BRIDGES,

Deportation Proceeding.

Honorable Sir:

Please take notice that upon the annexed petition, verified the 31st day of May, 1942, of Carol

King, Esq., one of the attorneys for the above named respondent, the undersigned respectfully move that a hearing or rehearing of the issues of law and fact in the above captioned proceeding be accorded forthwith, at such time and place and upon such notice as you may direct.

CAROL KING,
100 Fifth Avenue,
New York City.
GLADSTEIN; GROSSMAN,
MARGOLIS & SAWYER,
By RICHARD GLADSTEIN,
AUBREY GROSSMAN,
Mills Tower, San Francisco,
California.
Attorneys for Respondent.

To: Honorable Francis Biddle,
Attorney General of the United States,
Department of Justice,
Washington, D. C. [59]

Before the Attorney General
of the United States
Immigration and Naturalization Service

Case No. 55973/217

In the Matter of
ALFRED RENTON BRIDGES,
Deportation Proceeding.

The petition of Carol King respectfully shows
and alleges:

I am one of the attorneys for Harry Bridges, the Respondent herein.

On or about January 3, 1942 the Board of Immigration Appeals handed down an extended opinion at the conclusion of which it made the following order:

"The warrant of arrest and bond are cancelled and the proceedings closed. Execution of this order is stayed pending further order of the Attorney General or of this Board.

"The foregoing is the unanimous opinion, findings and order of the Board: Board Member Ashurst not participating."

Heretofore and since the inception of the Board of Immigration Appeals in no instance has its decision been reversed by the Attorney General and in consequence the argument of counsel before the Board of Immigration Appeals has been an appropriate hearing before the body determining the issues.

In the present proceeding the respondent was never given and has not yet had an opportunity to be heard by the official who determined his case.

I therefore request that a hearing or rehearing be accorded the respondent before Hon. Francis Biddle, the [60] Attorney General of the United States to consider all of the issues involved in the proceeding and more particularly to consider the following issues where in the said Attorney General most particularly erred in rendering his opinion on the 28th day of May, 1942:

(1) The question whether the Waterfront Worker during the time that respondent was connected with it was an organ of the MWIU or of the Communist Party. There is no evidence to support the conclusion in the Attorney General's opinion that respondent became connected with the paper in December, 1932, when it first began and this conclusion is based solely on assumption and conjecture which can have no probative value. Before the institution of any deportation proceedings against Bridges and when the matter was not in litigation the paper flatly denied on page 2 of the issue of January 29, 1934 (Gov. Ex. 234) that it was published by the MWIU or helped by it otherwise than by the contribution of news items. The Attorney General relies for this assumption upon the opinion of Presiding Inspector Charles B. Sears which is equally without basis in the evidence and actually is in conflict with the evidence in certain particulars, as for instance, when it states "that the 'Waterfront Worker' was from December 1932 to its abandonment in 1936, an instrument of the MWIU" when the MWIU was not in existence in 1936 and was liquidated in 1935. The Attorney General relies on the view of the Presiding Inspector against respondent's veracity but exclusive of the respondent's testimony there is not a scintilla of evidence on the point so that the Attorney General necessarily concludes that respondent became associated with the paper in December, 1932 although neither respondent nor any other witness so testified. A rehearing would afford respondent an opportunity to point

[61] out various other inconsistencies and manifest errors in the Attorney General's opinion.

Furthermore, the Attorney General approves the reasoning of the Presiding Inspector that the paper during Bridges' sponsorship was under the control of the MWIU and the Communist Party in part because of its "consistent attacks upon reactionary leaders of the A. F. of L." Such reasoning would equally apply to many leaders as well as members of the A. F. of L. and the entire philosophy behind the inception and history of the C. I. O. Such reasoning is irrational.

(2) With reference to the "testimony" of O'Neil, the Attorney General incorrectly relied upon the advisory opinion of the Presiding Inspector and said:

"The Board held that the statements were admissible for purposes of impeachment, but not as affirmative, probative evidence. The Board, admitting that the technical rules of evidence do not apply to administrative procedures, was of the opinion, nevertheless, that the fundamental requirement of a fair hearing required that the statements be excluded. With this I cannot agree. They were not submitted in the absence of the witness but only after he had taken the stand, admitted that he had made them, said he had spoken the truth when he made them; and denied merely that he had been correctly reported."

Finally the Attorney General said that

"On the whole question I am of the opinion

that Judge Sears' decision to admit the statements was appropriate and legally sound."

This overlooks the fact that the Presiding Inspector can make recommendations but has no power or authority to make decisions and that final rulings on evidence are properly the function only of the Board of Immigration Appeals (cf. Rules, General Order No. C-26, §19.6(e)).

Subsequent to the hearings the witness O'Neil, upon [62] whom the Attorney General relies, was convicted of perjury because of his testimony at the hearing.

(3) The Attorney General despite the fact that both the Presiding Inspector and the Board of Immigration Appeals placed no credence in the testimony of Thomas Lawrence, Maurice J. Cannalonga, Richard A. St. Clair, Robert P. Wilmot, John Oliver Thompson, said that "taken as a whole if cannot, because of its volume, be completely disregarded." Although the Attorney General rules, where there is a conflict in the conclusions reached upon the same evidence between the Presiding Inspector and the Board of Immigration Appeals, that the former should control, because he saw the demeanor of the witnesses, the Attorney General nevertheless accepts as having probative value testimony of witnesses not believed even by the Presiding Inspector. Thus each individual liar's evidence apparently has no probative value but the cumulative effect of testimony by five liars "taken as a whole . . . cannot . . . be completely disregarded".

(4) With reference to the incident of the North American strike the Attorney General wrote:

"Judge Sears held, justifiably I think, that though this did not, as the Government contended, show membership or affiliation, it did show Bridges' sympathetic attitude towards a strike denounced as a Communist maneuver."

Thus the respondent's attitude is plainly not proof of membership or affiliation—it is at most "a sympathetic attitude towards a strike denounced as a Communist maneuver", (our underscore), i. e. the maneuver may or may not be Communist but the fact that it is so denounced is considered by the Attorney General as sufficient to make respondent's attitude toward it of some evidentiary value. This, it is submitted, is in conflict not alone with all the rules of evidence in judicial proceedings but as well with the requirement of a [63] fair hearing inherent in due process in administrative proceedings.

The errors in the opinion of the Attorney General heretofore pointed out, are illustrative of the false reasoning throughout, which cannot be clarified in detail except in a document as extended as the decision of the Board of Immigration Appeals. Upon the argument of the hearing or rehearing and in the briefs therein submitted finally, an opportunity would be given to point out the faulty reasoning and manifest errors committed.

A hearing or rehearing is now sought because of the aforementioned and other improprieties in the Attorney General's views which, because of the lim-

ited jurisdiction of the court on habeas corpus proceedings in deportation cases can never be judicially reviewed. The court cannot pass upon the weight of the evidence. On this point, Brandeis, J., writing for the Court in *Tisi v. Todd* (264 U. S. 131, 132), said:

"We do not discuss the evidence; because the correctness of the judgment of the lower court is not to be determined by enquiring whether the conclusion drawn by the Secretary of Labor from the evidence was correct or by deciding whether the evidence was such that, if introduced in a court of law, it would be held legally sufficient to prove the fact found."

The denial of a fair hearing is not established by proving merely that the decision was wrong. *Chin Yow v. United States*, 208 U. S. 8, 13.

Only by a hearing or rehearing before the Attorney General can the errors committed be corrected, and a labor leader whose work is important to the war effort be freed from extended and costly litigation which will serve to divert his attention from his important war efforts, and the labor movement be saved from anxiety and expense. [64]

Wherefore petitioner respectfully requests that an opportunity be given to respondent and his attorneys to present argument and briefs to the Honorable Attorney General of the United States so that he may in the light of such briefs and argument reconsider and reverse his decision.

United States of America,
Southern District of New York—ss.

Carol King, being duly sworn, says, that she is the petitioner above named; that she has read the foregoing petition and knows the contents thereof, and that the same is true to the knowledge of deponent, except as to the matters therein stated to be alleged upon information and belief, and as to these matters she believes it to be true.

Sworn to before me this 31st day of May, 1942.

[Notarial signature, stamp and seal.]

SAMUEL W. WEISS. [65]

EXHIBIT L

Before the Attorney General
of the United States
In Deportation Proceedings

In re:

HARRY BRIDGES

Case No. 55973/217

Now, this fourth day of June, 1942, upon the petition of Carol King, one of the attorneys for the respondent Harry Bridges for an opportunity to present argument and briefs to the Attorney General in favor of a reconsideration and reversal of his decision and order of May 28, 1942, due consideration having been given by me to the said petition and the allegations therein contained, it is

hereby ordered that the petition be, and the same is hereby denied.

/s/ FRANCIS BIDDLE,

Attorney General. [66]

[Title of District Court and Cause.]

TRAVERSE TO GOVERNMENT'S RETURN

Before Honorable Martin L. Welsh.

Petitioner above named herewith files his traverse to the Government's return herein, and alleges:

I.

Each and every allegation in the amended petition for writ of habeas corpus filed herein, together with the exhibits annexed thereto or therein incorporated, is, and they are all, hereby referred to, and by this reference realleged and incorporated herein, with the same force and effect as though set forth at length.

II.

The Government's return to the order to show cause, and the warrant of deportation and original record annexed to said return as Exhibit A, are, and each of them is, insufficient to justify denial of the writ of habeas corpus herein. [67]

III.

Said return and annexed exhibit are, and each of them is, insufficient, and they and each of them do actually serve, to establish that petitioner was de-

prived of liberty without due process of law, in violation of the Fifth Amendment to the Constitution of the United States, in that no substantial evidence was introduced at the hearings accorded petitioner in support either of the charges in the warrant of arrest or the findings in the warrant of deportation herein.

IV.

The said warrant and annexed exhibit are, and each of them is, insufficient, and they and each of them do actually serve, to establish that petitioner was deprived of liberty without due process of law, in violation of the Fifth Amendment to the Constitution of the United States, in that the hearings accorded petitioner were unfair, because the Rules and Regulations of the Immigration and Naturalization Service were violated in admitting, as affirmative proof of the facts therein set forth, testimony concerning certain private, unsworn and unsigned statements of one James D. O'Neil; and also in that, as the Board of Immigration Appeals stated in its decision, "The fundamental requirement of a fair hearing required that the statements be excluded", and by reason thereof said hearings, at which said incompetent statements were received and in which said statements constituted so large and vital a portion of the evidence, cannot and do not, consistent with the said due process clause of the Fifth Amendment to the Constitution of the United States, constitute the basis for the issuance of a warrant of deportation.

V.

The said return and annexed exhibit do, and each of them does, fail to deny that the Immigration and Naturalization Service [68] discriminated against petitioner in hastening to require petitioner's immediate surrender for deportation, whereas the Rules of the Immigration and Naturalization Service, §150.12(c), provide that " . . . the Chief of the Warrant Branch . . . shall have authority . . . to exercise the powers of the Attorney General or the Commissioner of Immigration and Naturalization . . . to stay the execution of a warrant of deportation: Provided, however, that no stay, beyond six months from the date of the issuance of such warrant shall be granted without approval by the Special Assistant in Charge." Petitioner is informed and believes and therefore alleges that said Rule has uniformly been interpreted and applied so that, where an alien is ordered deported who has an established domicile in the United States and has resided in the United States with his family, and especially where the members of his family are citizens of the United States, he is allowed ninety days from and after the time of the issuance of a warrant of deportation before he is required to surrender for deportation. The refusal to allow petitioner the said usual time in which to surrender, in the face of petitioner's request for such time, as in the amended petition for writ of habeas corpus alleged, served to and did deny petitioner the equal protection of the laws, and thereby further deprived him of liberty without due process of law, in violation

of the Fifth Amendment to the Constitution of the United States.

VI.

The said return and annexed exhibit are, and each of them is, insufficient in that they do, and each of them does, fail to deny that the Attorney General fails to accord petitioner a fair hearing or any opportunity at all to be heard, and in that the Attorney General did not set forth in his decision that the Board of Immigration Appeals had (and it is the fact that said Board had not) certified that a question of difficulty was involved, or that the [69] Attorney General had (and it is the fact that notice has never been given petitioner that the Attorney General had) directed that the case be referred to himself for review, and thus the Attorney General failed to set forth jurisdictional facts upon which he purported to rely in rendering his decision, all of which did and does serve to deprive petitioner of due process of law, in violation of the Fifth Amendment to the Constitution of the United States.

VII.

The said return and annexed exhibit are, and each of them is, insufficient in that they do, and each of them does, fail to deny that the Attorney General made his decision without hearing the evidence in behalf of and against petitioner, and without having the legal and factual issues argued before him. In truth and in fact the argument made on behalf of petitioner before the Board of Immi-

gration Appeals was not stenographically or otherwise recorded, and was not transcribed, and therefore was not available to the Attorney General, who was personally not present at the time said argument was made to said Board. Petitioner was thus further deprived of liberty without due process of law, in violation of the Fifth Amendment to the Constitution of the United States.

VIII.

The said return and annexed exhibit are, and each of them is, insufficient in that they do, and each of them does, fail to deny that the Attorney General rendered his decision without informing petitioner of his proposed action. More particularly, the Attorney General did not serve upon petitioner or petitioner's counsel any proposed findings of fact or proposed conclusions of law. Petitioner was thereby further deprived of liberty without due process of law, in violation of the Fifth Amendment to the Constitution of the United States. [70]

IX.

The said return and annexed exhibit are, and each of them is, insufficient to, and they and each of them does, contradict the allegations in the amended petition that petitioner was deprived of liberty without due process of law, in that he was denied the equal protection of the laws, in violation of the Fifth Amendment to the Constitution of the United States. The Attorney General purports to rely in his decision upon the enactment of the Amendment of June 28, 1940 to the Immigration Act of October 16, 1918

(18 U.S.C. §137), when in truth and in fact such amendment did not present any new issue, but has served only to give a colorable basis for the issuance of the second warrant of arrest served on petitioner February 14, 1941. The said amendment did and does provide for deportation of an alien who was "at the time of entering the United States, or has been at any time thereafter" a member of a proscribed organization (54 Stat. 673). The Attorney General's opinion states in part:

"The Attorney General in view of the amendment referred to, directed the Federal Bureau of Investigation to make a further investigation to determine whether under the law as changed, grounds existed for re-opening the deportation proceedings against Bridges."

Although the Attorney General thus purported to rely on the amendment of the law, whereby not alone present membership or affiliation but past membership or affiliation warranted deportation, in truth and in fact the 1939 proceeding was concerned not alone with present membership or affiliation, but even more with past membership or affiliation; indeed, all of the evidence introduced in said hearing against petitioner was evidence of past membership or affiliation, and no evidence whatsoever of present membership or affiliation was introduced by the Government, and the Government's case for present membership and affiliation relied entirely upon inferences drawn, or presumptions based upon, evidence of past membership and affiliation [71]

With reference to petitioner's further contention that he was denied the equal protection of the laws, and thereby deprived of his liberty without due process of law in violation of the Fifth Amendment to the Constitution of the United States, in that no other deportation proceeding has been instituted for membership in or affiliation with the Marine Workers Industrial Union since January 3, 1934, the Attorney General's opinion is silent, but apparently relies on and accepts the following statement contained in the Memorandum of the Presiding Inspector:

"As to the M.W.I.U., it should be noted that as this organization was dissolved in 1935, and as the law, as it stood before June 28, 1940, confined deportation proceedings such as the present one to aliens who, at the time of the institution of the proceeding were members or affiliates of described organizations, there could be no proceeding having reference to the M.W.I.U. from the time of its dissolution in 1935 to the 28th day of June, 1940. For factual as well as legal reasons, I conclude that the alien's point is not well taken." (p. 15)

The foregoing statement is a plain distortion, inasmuch as proceedings for past membership and affiliation could have been, and in fact were, instituted and brought by the Immigration Service up to the date of the decision of the United States Supreme Court in *Kessler v Strecker*, 307 U.S. 22, i.e., April 17, 1939. The fact that the Immigration Service brought no such proceeding for membership in or affiliation with the Marine Workers Industrial Union, or any other

union affiliated with the Trade Union Unity League, from January 3, 1934 to date; and the further fact, as petitioner is informed and believes and therefore alleges, that general instructions were issued by the Immigration Service to its inspectors, on or about January 3, 1934, not to initiate, and if initiated to discontinue, deportation proceedings for membership in or affiliation with the Marine Workers Industrial Union or any other union affiliated with the Trade Union Unity League; and the further fact that, as petitioner is informed and believes and therefore alleges, thousands [72] of persons, many of them aliens, were or had been members of or affiliated with such unions, all of which was known to the said Immigration Service, all serve to and do refute the attempted explanation, as aforesaid, for proceeding against petitioner for such alleged membership in or affiliation with the said Marine Workers Industrial Union on the basis of the change in law after January 28, 1940.

X.

The said return and annexed exhibit do, and each of them does, fail to deny that the application of the said amendment of January 28, 1940, to petitioner did and does constitute an ex post facto or retroactive law, in violation of the prohibitions of Article I, §9 of the Constitution of the United States, and thereby further deprives petitioner of liberty without due process of law, in violation of the Fifth Amendment to the Constitution of the United States, in that:

1. With respect to affiliation in the Marine Workers Industrial Union, all proof must have

stopped at least by 1935, inasmuch as the said organization admittedly either went out of existence at said time, or even at an earlier date, to-wit: January 3, 1934, since on said day the Commissioner of Immigration and Naturalization ruled that membership in or affiliation with the Marine Workers Industrial Union did not constitute grounds for deportation, whereas the order to deport petitioner purports to be under and by virtue of an act which did not become law until the year 1940, to-wit: the amendment of June 28, 1940;

2. With respect to membership in or affiliation with the Communist Party, the charge against petitioner is that, after entering the United States, he "has been" a member of or affiliated with said organization. After the 1939 [73] hearing against petitioner, the Trial Examiner in his Findings and Conclusions found neither membership in nor affiliation with the Communist Party. The said 1940 amendment to the Immigration and Naturalization Laws was enacted to authorize and direct deportation for past membership and affiliation in proscribed organizations. As alleged, the Attorney General directed a further investigation of petitioner "to determine whether under the law as changed, grounds existed for re-opening deportation proceedings against Bridges" (emphasis ours). All the evidence relied on by the Attorney General in his order of deportation against petitioner concerns the same kind of

acts or conduct embraced within the same period of time covered by the evidence at the first hearing against petitioner, to-wit: from 1932 through a part of 1938; whereas the order to deport petitioner purports to be under and by virtue of an act which became law in 1940.

XI.

The said return and annexed exhibit, and the Opinion and Decision of the Board of Immigration Appeals, and the Decisions and Order of the Attorney General, established that petitioner was deprived of liberty without due process of law, in violation of the Fifth Amendment to the Constitution of the United States, in that:

1. The Attorney General reversed the Findings of Fact, Conclusions of Law, Decision and Order of the Board of Immigration Appeals without finding the said Findings, Conclusions, Decision and Order unsupported by substantial evidence;
2. Said Findings, Conclusions, Decision and Order of the Board of Immigration Appeals were supported by substantial evidence;
3. The Attorney General, in his decision, relied in part on the testimony of Government witnesses Dimer, Honig, Lawrence, Ganna- [74] Tonga, St. Clair, Wilmot and Thompson, none of whom he had seen or had the opportunity to observe when they gave their testimony, and none of whose testimony was accepted either by the Presiding Inspector or the Board of Immigration Appeals as establishing the facts to which they testified;

4. The Decision and Order of the Attorney General is based upon an erroneous conception and definition of the term "affiliation," for which no support or warrant can be found in the statute as written (8 U.S.C. §137) or as judicially construed;

5. The Attorney General, in his decision, manifestly adopts the following method in resolving the conflict between the proposed Findings and Conclusions of the Presiding Inspector, and the Decision of the Board of Immigration Appeals, to wit: said Attorney General counter-poses the said proposed Findings, and the said Decision against each other, and in instance after instance resolves said conflict in favor of said proposed Findings; and adversely to the Decision of said Board, upon the ground that the said Presiding Inspector saw and heard the witnesses at said hearing; and in so doing, the Attorney General violates his own Rules and Regulations, and the Rules and Regulations issued and promulgated by the Department of Justice, for the reason that the said Rules and Regulations do not warrant, justify, or authorize the Attorney General to resolve such conflict as the aforesaid by resort to the fact that the Presiding Inspector had seen the witnesses, inasmuch as the said Rules and Regulations expressly provide that, notwithstanding the fact that the Presiding Inspector sees and hears the witnesses and the Board of Immigration Appeals does not, the former has power and authority only to propose Findings and Conclusions, whereas the Board is expressly given authority and power to make a binding decision. Thus, the pattern,

contained in and laid down by said Rules and Regulations; according to which decisions shall be arrived at [75] and made, is violated by the Attorney General's resort, as aforesaid, to the fact that the Presiding Inspector has seen witnesses, as the basis for overruling the Decision of the Board. In violating the said Rules and Regulations, the Attorney General violates the law, for the said Rules and Regulations have the force and effect of law:

6. Petitioner is informed and believes and therefore alleges that no hearing has ever been accorded by the Attorney General in any Immigration or Deportation proceeding, and there is no procedure in the Regulations of the Immigration and Naturalization Service or elsewhere for application to be made for any hearing, nor for any hearings to be granted, by the Attorney General in any Immigration or Deportation proceeding.

XII.

The issuance of the warrant of deportation, a copy of which is attached to the return herein, and the detention of petitioner thereunder, do and each of them does deprive petitioner of due process of law, in violation of the Fifth Amendment to the Constitution of the United States, in that petitioner is thereby deprived of the equal protection of the laws, and further in that the issues in the said second hearing which resulted in the issuance of the said warrant, were and are res judicata, and in that petitioner was subjected to double jeopardy in and by said second hearing against him, and in that the said 1940 amendment to the Deportation Law, as

applied to petitioner, is an ex post facto or retroactive law; also violating Article I §9 of the Constitution of the United States. Said warrant issued as a result of the said Decision and Order of the Attorney General overruling the Decision of the Board of Immigration Appeals, without any notice or opportunity for argument having been accorded petitioner or his counsel, and without any finding that the decision or findings of the Board of Immigration Appeals were or are without evidence to support them, or were or are in conflict [76] with the evidence; and petitioner is further informed and believes and therefore alleges that the Attorney General had not read or familiarized himself with the record, briefs, pleadings, affidavits, transcript, and exhibits in the second hearing against petitioner.

Said warrant and detention thereunder further do, and each of them does, deprive petitioner of his rights of freedom and speech, freedom of press, freedom of peaceable assembly, and freedom to petition the Government for a redress of grievances, all in violation of the First Amendment to the Constitution of the United States.

XIII.

Each of the errors pointed out hereinabove, and in the amended petition for writ of habeas corpus herein, taken separately, and all of them taken together, were and are prejudicial to petitioner, and did and do serve to deprive petitioner of liberty without due process of law, in violation of the Fifth Amendment to the Constitution of the United States.

Wherefore, petitioner prays that the writ of habeas corpus issue, and that the petitioner may have his freedom.

LEE PRESSMAN,

Congress of Industrial Organizations, Washington, D. C.

CAROL KING,

100 Fifth Avenue, New York
City, New York.

GLADSTEIN, GROSSMAN,

MARGOLIS & SAWYER,
560 Mills Tower, San Francisco,
California.

By RICHARD GLADSTEIN,
AUBREY GROSSMAN,

Attorneys for Petitioner [77]

State of California,

City and County of San Francisco—ss.

Richard Gladstein, being first duly sworn, deposes and says:

That he is one of the attorneys for the petitioner in the above entitled matter; that petitioner is outside of the City and County of San Francisco, State of California, where affiant has his offices, and he therefore makes this verification on behalf of said petitioner; that he has read the foregoing Traverse to Government's Return and knows the contents thereof; that the same is true of his own knowledge, except as to the matters which are therein stated on in-

formation and belief, and as to those matters that he believes it to be true.

RICHARD GLADSTEIN.

Subscribed and sworn to before me this 24th day of August, 1942.

(Seal) DOROTHY H. McLENNAN,
Notary Public in and for the City and County of
San Francisco, State of California.

(Receipt of service.)

[Endorsed] Filed Aug. 24, 1942. [78]

[Title of District Court and Cause.]

NOTICE OF MOTION AND MOTION FOR
ORDER TO TAKE DEPOSITION.

To Frank J. Hennessey and Louis R. Mercado,
United States Attorney and Assistant United
States Attorney Respectively:

Before Honorable Martin I. Welsh

You and Each of You Will Please Take Notice
that, on the 25th day of September, 1942, at 10 o'clock
A. M. thereof; or as soon thereafter as counsel can be
heard, in the courtroom of the Hon. Martin I. Welsh,
at Sacramento, California, the above-named petition
er will, and he hereby does move the Court for
an order to take the deposition of Hon. Francis Bid
dle, Attorney General of the United States, and Earl
G. Harrison, Esq., Commissioner, Immigration and
Naturalization Service, or any person or persons
that he or they may designate, at such time and place

and before such officer as the Court shall direct, concerning the following matters.

I.

1. Whether subsequent to January 3, 1934, any instruction, direction, memorandum, or other written or printed information or order was sent to the field officers or the Central Office of the Immigration and Naturalization Service advising such officers or any of them to discontinue or not to [79] institute deportation proceedings against any class of persons or against any individual alien because of his or their membership in or affiliation with the Marine Workers' Industrial Union, the Trade Union Unity League, or any affiliate of the Trade Union Unity League.
2. Whether subsequent to January 3, 1934, any deportation proceeding was instituted or carried forward against any alien because of his membership in or affiliation with the Marine Workers' Industrial Union, the Trade Union Unity League, or any affiliate of the Trade Union Unity League.
3. Whether the Immigration and Naturalization Service knew or had facts upon which they should have known that there were and are thousands of aliens in the United States who at the time were, are, had been or have been members of or affiliated with the Marine Workers' Industrial Union, the Trade Union Unity League, or any affiliate of the Trade Union Unity League after January 3, 1934.
4. Whether in or about or subsequent to the year 1920, any instruction, direction, memorandum, or

other written or printed information or order was sent to the field officers of the Central Office of the Immigration and Naturalization Service advising such officers or any of them to discontinue or not to institute deportation proceedings against any class of persons or against any individual alien because of his or their membership in or affiliation with the Industrial Workers of the World.

5. Whether in or about or subsequent to the year 1920, any deportation proceeding was instituted or carried forward against any alien because of his membership in or affiliations with the Industrial Workers of the World. [80]

6. Whether the Immigration and Naturalization Service knew or had facts upon which they should have known that there were and are thousands of aliens in the United States who at the time were, are, had been or have been members of or affiliated with the Industrial Workers of the World in or about or subsequent to the year 1920.

II.

A direction to the said Hon. Francis Biddle, Attorney General of the United States, and Earl G. Harrison, Esq., Commissioner, Immigration and Naturalization Service, or any person or persons that he or they may designate, requiring him or them upon the taking of the said deposition to produce the following:

1. All written opinions, rules, instructions, memoranda, communications, formal or informal, or regulations of whatever nature or kind which were sent to

the field officers or the Central Office of the Immigration and Naturalization Service advising such officers or any of them to discontinue or not to institute deportation proceedings against any class of person or against any individual alien because of his or their membership in or affiliation with the Marine Workers' Industrial Union, the Trade Union Unity League, or any affiliate of the Trade Union Unity League.

2. All written opinions, rules, instructions, memoranda, communications, formal or informal, or regulations of whatever nature or kind which were sent to the field officers or the Central Office of the Immigration and Naturalization Service advising such officers or any of them to discontinue or not to institute deportation proceedings against any class of person or against any individual alien because of his or their membership in or affiliation with the Industrial Workers of the World. [81]

The above matters are material and relevant in support of petitioner's claim that he is being denied equal protection of the laws and is being denied his liberty without due process of law in violation of the Fifth Amendment to the Constitution of the United States. None of such matters can be proved without the taking of said deposition and the issuance of said subpoenas.

Petitioner also requests such other, further and different relief as may seem proper to the Court upon this motion.

Yours, etc.,

LEE PRESSMAN,

Congress of Industrial Organizations,
Washington, D. C.

CAROL KING,

100 Fifth Avenue, New York,
N. Y.

GLADSTEIN, GROSSMAN,

MARGOLIS & SAWYER,

561 Mills Tower, San Francisco,
California.

By: **RICHARD GLADSTEIN,**
AUBREY GROSSMAN,

Attorneys for Petitioner. [82]

[Title of District Court and Cause.]

**AFFIDAVIT OF CAROL KING IN SUPPORT
OF NOTICE OF MOTION AND MOTION
FOR ORDER TO TAKE DEPOSITION.**

State of New York.

City of New York.

County of New York—ss.

Carol King, being first duly sworn, deposes and says:

I am one of the attorneys for Harry Bridges, the petitioner herein. During the hearings conducted before Presiding Inspector Charles B. Sears I signed applications for a subpoena and a subpoena duces

tecum for Frances Perkins, Secretary of the Department of Labor, Gerard D. Reilly, formerly Solicitor of Labor, and Lemuel B. Schofield, the then acting Chief of the Immigration and Naturalization Service, in order that these three officials should appear and testify at such hearings and produce documents in their possession with reference to deportation proceedings instituted subsequent to the order of the Commissioner of Immigration, Daniel W. MacCor- mack, dated January 3, 1934, against aliens for mem- bership in or affiliation with the Marine Workers' Industrial Union and the Trade Union Unity League, and with reference to deportation proceedings insti- tuted in or about or [83] subsequent to the year 1920 against aliens for membership in or affiliation with the Industrial Workers of the World. A copy of said applications is attached hereto and made a part hereof.

The said Presiding Inspector declined to issue the said subpoenas [Transcript, pp 5047-50] and the applications thereafter were marked Alien's Exhibits Nos. 28 and 29 for identification [Transcript, p 5051.]

In his Memorandum of Decision the Presiding In- spector wrote:

"Subpoenas were issued in every case where a re- quest, in accordance with the rules of the Depart- ment, was presented to me except in the case of re- quests for the examination of Lemuel B. Schofield, Special Assistant to the Attorney General in Charge of Immigration and Naturalization; Frances Per- kinis Secretary of Labor and Gerard D. Reilly, So-

leitor of the Department of Labor, and for the production of documents by them from Government archives and files.

"The ground for alien's applications for such subpoenas was his claim that this proceeding so far as it related to Bridge's connection with the M. W. I. U., the I. L. D., the T. U. U. L., the I. W. W. denied Bridges the equal protection of the laws, amounting to a denial of due process, in violation of the Fifth Amendment of the Constitution in that, since 1920, the Immigration and Naturalization Service has held that membership in the Industrial Workers of the World did not render an alien deportable, and that since January 3, 1934, has ruled that membership in or affiliation with the M. W. I. U. and I. L. D. and T. U. U. L. did not render an alien deportable, and despite the presence in the country of many thousands of members of such organizations, since 1920, no proceeding has been instituted nor any action taken to carry forward any proceeding theretofore instituted to deport any alien for membership in our affiliation with the Industrial Workers of the World, and that since January 3, 1934, no proceeding has been instituted, despite the presence in the country of thousands of alien members of such organizations, nor any action taken to carry forward any proceeding theretofore instituted to deport any alien for membership in or affiliation with the Marine Workers Industrial Union, the International Labor Defense or the Trade Union Unity League, whereas the present proceedings against Bridges is based upon such membership or affiliations. [84]

"The requests for these subpoenas were denied, first, because I was of the opinion that I was without power to call before me the present head of the Immigration Service in the Department of Justice, or the present head or Solicitor of the Department of Labor, in which Department the Immigration Service was previously included, and, second, because any official ruling of a Department or Service of the Government would be a matter of public record and could be otherwise produced, and, third, because in my opinion the evidence sought was wholly immaterial, the fundamental questions of the character of the organizations mentioned being a matter of fact, open to proof in each particular case." (pp. 9-10.)

The said Presiding Inspector was in error in stating that any official ruling of a Department or Service of the Government would be a matter of public record, and could be otherwise produced. The rulings of the Immigration and Naturalization Service are not matters of public record and are in fact kept secret and confidential and are frequently not even mimeographed for the use of the Service. [See Immigration and Naturalization Service, pp. 127-135.]

On or about the 28th day of August, 1942, I requested Earl G. Harrison, Esq., Commissioner, Immigration and Naturalization Service, to furnish the information here sought and at that time left with him a draft of the motion hereto annexed; on the 8th day of September, 1942, I received the annexed letter from the said Commissioner stating that "the motion should be presented to the Court in due

course and pending action by the Court the information will not be furnished in any other manner.

Wherefore deponent respectfully requests that this Court direct the taking of depositions of Hon. Francis Biddle, Attorney General of the United States, and Earl G. Harrison, Esq., Commissioner, Immigration and Naturalization Service, or any person or persons that he or they may designate as hereinabove requested.

CAROL KING.

Sworn to before me this 8th day of September, 1942.

SALLY N. FUCHS,

Notary Public, New York County, New York
County Clerk's No. 186, Commission expires
March 30, 1944. [85]

(Copy)

Earl G. Harrison
Commissioner

Department of Justice
Immigration and Naturalization Service
Philadelphia

55973/217

September 5, 1942

Mrs. Carol King,
100 Fifth Avenue,
New York City, N.Y.

Dear Mrs. King:

In accordance with the request made by you in our conference a few days ago I have discussed

with the Department the matter of your motion for order to take deposition. It is our opinion that the motion should be presented to the Court in due course and pending action by the Court the information will not be furnished in any other manner.

Very sincerely yours,
(Signed) EARL G. HARRISON
Commissioner [86]

Before the Department of Justice of the
United States of America

Case No. 55973/217

In the Matter of
HARRY RENTON BRIDGES

APPLICATION FOR SUBPOENA

State of California

City and County of San Francisco—ss.

Carol King, being first duly sworn, deposes and says:

That she is one of the attorneys for Harry Renton Bridges in the above proceedings and that certain testimony is necessary and material for the issues involved in the said proceedings; and that the testimony of Frances Perkins, Gerard D. Reilly, and Lemuel B. Schofield is relevant and material therein, more particularly on the issue of

whether said Harry Renton Bridges is being denied equal protection of the laws, in violation of Article 5 of the Amendments to the Constitution of the United States, in that since in or about 1920 the Immigration and Naturalization Service as the said Frances Perkins, Gerard D. Reilly and Lemuel B. Schofield well know, has held that membership in or affiliation with the Industrial Workers of the World did not render an alien deportable and since on or about January 3, 1934, has ruled that membership in or affiliation with the Marine Workers Industrial Union, the International Labor Defense or the Trade Union Unity League did not render an alien deportable, and that no alien should be arrested for membership in or affiliation with said organizations, and that since 1920, despite the presence in the country of many thousands of alien members of [87] such organization, no proceedings have been instituted, nor any action taken to carry forward any proceeding theretofore instituted to deport any alien for membership in or affiliation with the Industrial Workers of the World, and that since January 3, 1934, no proceedings have been instituted, despite the presence in the country of thousands of alien members of such organizations, nor any action taken to carry forward any proceeding theretofore instituted to deport any alien for membership in or affiliation with the Marine Workers Industrial Union, the International Labor Defense or the Trade Union Unity League, whereas it is now sought to deport the said Harry Renton Bridges for former membership in the said Industrial

Workers of the World and former membership in or affiliation with the Marine Workers Industrial Union, the International Labor Defense and the Trade Union Unity League. That said Frances Perkins, Gerard D. Reilly and Lemuel B. Schofield will not appear without a subpoena.

Wherefore, applicant prays that subpoenas be issued requiring Frances Perkins, Gerard D. Reilly and Lemuel B. Schofield to attend as witnesses at the trial of the above proceedings.

(Signed) CAROL KING

Dated for Appearance, Wednesday, May 28, 1941.

Subscribed and sworn to before me this 22nd day of May, 1941.

[Seal] DOROTHY H. McLENNAN

Notary Public in and for the City and County of San Francisco, State of California.

My commission expires December 24, 1942. [88]

Before the Department of Justice of the
United States of America

Case No. 55973/217

In the Matter of

HARRY RENTON BRIDGES

APPLICATION FOR SUBPOENA
DUCES TECUM

State of California

City and County of San Francisco—ss.

Carol King, being first duly sworn, deposes and says:

That she is one of the attorneys for Harry Ren-
ton Bridges in the above case, and that certain
documents are necessary and material to the issues
involved in the said case and the said documents
are, to wit: all written opinions, rules, instructions,
memoranda, communications, formal or informal or
regulations of whatever nature or kind promul-
gated by the Immigration and Naturalization Serv-
ice, or any officer thereof, dealing with or bearing
upon the arrest, deportation or discharge of any
alien or class of aliens based upon membership in
or affiliation with the Industrial Workers of the
World, the International Labor Defense, the Ma-
rine Workers Industrial Union or the Trade Union
Unity League, and more particularly such opin-
ions, rules, instructions, memoranda, communica-
tions and regulations determining or indicating in
any way that any alien or class of aliens should not
be arrested for or proceeded against for member-
ship in or affiliation with said Industrial Workers
of the World, International Labor Defense, Ma-
rine Workers Industrial Union or Trade Union
Unity League, or that warrants of arrest should
be [89] cancelled or proceedings discontinued or
terminated in the case of any alien or class of aliens
theretofore arrested because of membership in said
Industrial Workers of the World, International
Labor Defense, Marine Workers Industrial Union
or Trade Union Unity League.

Said opinions, rules, instructions, memoranda,
communications and regulations are material to the

issues by reason of their bearing upon the question of whether said Harry Renton Bridges is being denied equal protection of the laws guaranteed by Article V of the Amendments to the Constitution of the United States in the construction and application of the Immigration Laws and rules promulgated pursuant thereto and are necessary to be produced in order to establish that said Harry Renton Bridges is in fact being denied equal protection of the laws guaranteed by Article V of the Amendments to the Constitution of the United States in the construction and application of the Immigration Laws and rules promulgated pursuant thereto in that it is sought to deport said Harry Renton Bridges for former membership in the Industrial Workers of the World whereas the Immigration and Naturalization Service despite the presence in the United States of many thousands of alien members of such organization has not sought to deport any alien for either former or existing membership in said Industrial Workers of the World since 1920, and is now seeking to deport said Harry Renton Bridges for former membership in or affiliation with the International Labor Defense, the Marine Workers Industrial Union and the Trade Union Unity League, whereas the Immigration and Naturalization Service despite the presence in the United States of thousands of members of such organizations has not sought to deport any alien for former membership in or affiliation with the International Labor Defense, the Marine Workers Industrial Union or the Trade

Union Unity League [90] since on or about January 3, 1934.

Affiant believes that Frances Perkins, Gerard D. Reilly and Lemuel B. Schofield have custody of said opinions, rules, instructions, memoranda, communications and regulations and will not appear without subpoena.

Wherefore, affiant prays, that subpoenas duces tecum be issued requiring said Frances Perkins, Gerard D. Reilly and Lemuel B. Schofield to attend as witnesses in the trial of the proceedings and to bring with them the documents above described.

(Signed) **CAROL KING**

Date for Appearance: Wednesday, May 28, 1941.

Subscribed and sworn to before me this 22nd day of May, 1941.

[Seal] **THOMAS A. DOUGHERTY**

Notary Public in and for the City and County of San Francisco, State of California.

[Endorsed]: Filed Sept. 14, 1942. [91]

[Title of District Court and Cause.]

**NOTICE OF MOTION, AND MOTION, FOR
ISSUANCE OF SUBPOENA DUCES
TECUM**

To Frank J. Hennessey and Louis R. Mercado,
United States Attorney and Assistant United
States Attorney Respectively:

Before: Honorable Martin I. Welsh.

You and Each of You Will Please Take Notice that, on the 31st day of August, 1942, at 10 o'clock a.m. thereof, or as soon thereafter as counsel can be heard, in the courtroom of the Hon. Martin I. Welsh, at the Post Office Building, 7th and Mission Streets, San Francisco, California, the above named petitioner will, and he hereby does, move the court for its order directing the issuance of a subpoena duces tecum against Francis Biddle as Attorney General of the United States, and/or J. Edgar Hoover as Director of the Federal Bureau of Investigation, requiring the said Biddle and Hoover, or either of them, personally or through representatives selected by them or either of them, to bring and pro- [92] duce at a time and place to be fixed by the said court:

1. All written statements, whether in narrative or question and answer form, and whether signed or unsigned, made or dictated by, or taken from, one Maurice J. Cannalonga, which said statements were taken by Earl Connelley, the then Administrative Assistant to the said

J. Edgar Hoover, and which said statements at all times since have been and now are in the possession and under the control of the said Biddle and/or Hoover; and

2. All records, reports or transcripts of interviews, statements, affidavits, reports, and all other writings of any kind or character dealing with or pertaining to that certain investigation conducted by agents or officers of any branch of the United States Government between May 6 and June 6, 1941, into the circumstances surrounding the taking of that certain deposition, on May 6, 1941, in Portland, Oregon, of the said Cannalonga, and particularly covering the question of whether the said Cannalonga was drunk during the taking of said May 6 deposition, which said records, reports, etc., have been and now are in the possession and under the control of the said Biddle and/or Hoover,

then and there to be examined under oath concerning the same.

Said motion will be, and is, made upon the ground that said statements and the said reports, etc., are material and necessary to enable petitioner to establish that the Government, on the 4th day of June, 1941, produced the said Cannalonga as a witness against petitioner in the hearings herefores held in the above matter, well knowing that said Cannalonga intended to, and in fact did, wilfully give false testimony.

Harry Bridges vs.

Said motion will be, and is, based upon this notice, the [93] affidavit of Richard Gladstein, hereto annexed, and all of the records, papers, pleadings and exhibits on file in this proceeding.

Dated: August 24, 1942.

LEE PRESSMAN

Congress of Industrial Organizations

Washington, D.C.

CAROL KING

100 Fifth Avenue

New York City, New York

GLADSTEIN GROSSMAN

MARGOLIS AND SAWYER

560 Mills Tower

San Francisco, California

By RICHARD GLADSTEIN

AUBREY GROSSMAN

Attorneys for Petitioner.

MEMORANDUM OF POINTS AND
AUTHORITIES

See authorities cited in Opening Brief on behalf of petitioner, PP. 267-8. [94]

[Title of District Court and Cause.]

**AFFIDAVIT OF RICHARD GLADSTEIN IN
SUPPORT OF NOTICE OF MOTION, AND
MOTION, FOR ISSUANCE OF SUB-
POENA DUCES TECUM**

State of California

City and County of San Francisco—ss.

Richard Gladstein, being first duly sworn, deposes and says:

' I am one of the attorneys of record for Harry Bridges, petitioner in the above matter.

During the hearings in the above matter, conducted before Presiding Inspector Charles B. Sears, the Government produced against petitioner a witness named Maurice J. Cannalonga, who testified in substance and effect that petitioner had attended certain Communist Party meetings at which the said Cannalonga was present. Said testimony was given on April 17, 1941. Shortly thereafter, on May 4, 1941, the said Cannalonga gave a deposition under oath [see Alien's [95] Exhibit 13 in evidence] in Portland, Oregon, repudiating the said testimony given on the witness stand, and stating further that the said testimony given at the hearing was false, and was known to be false by the Government agents who produced him as a witness.

On June 4, 1941, Cannalonga was again produced by the Government as its witness, and he then testified in substance and effect that he did not know what he had said in the May 6, 1941, deposition, because he had been drunk [see Transcript, p. 633].

In so testifying, the said Cannalonga wilfully gave false testimony, and the said Presiding Inspector expressly found, in his Memorandum of Decision, as follows:

"At times, in my judgment, he [Cannalonga] clearly falsified, particularly in relation to his alleged intoxication, and other evidence subsequent to his first appearance as a witness."

[See Sears, Memorandum of Decision, pp. 151-2.]

Also concerning said testimony, the Board of Immigration Appeals found as follows:

"The tortuous convolutions of Maurice J. Cannalonga's testimony rendered it worthless in its face . . . That he lied freely is evident."

[See Decision of the Board of Immigration Appeals, p. 5, footnote 4.]

Before producing said Cannalonga as a witness for the second time, the Government agents in charge of the prosecution against petitioner announced their intention to investigate the "circumstances surrounding" the taking of the said May 6 deposition [see Transcript, p. 3058], and did in fact conduct such an investigation [see Transcript, p. 7294]. Affiant alleges as a fact that said Government agents, as a result of said investigation, well knew that said Cannalonga was not drunk during the taking of the said May 6 deposition. Affiant is informed and believes and therefore alleges that, in accordance with the usual procedure in such cases, records, memoranda and

written reports of the said investigation into the circumstances surrounding the taking of the May 6 deposition, and particularly concerning the question of whether said Cannalonga was drunk during [96] the taking of the said May 6 deposition, were made by agents of the Federal Bureau of Investigation and of the Immigration and Naturalization Service of the Department of Justice, and said records, reports, etc., ever since have been and now are in the possession and under the control of the said Biddle and/or the said Hoover.

Between June 1 and June 4, 1941, the said Cannalonga was in the constant "protective custody" of agents of the Federal Bureau of Investigation [see Transcript, pp. 6360-70]. During said period, at least two Government agents were with Cannalonga at all times except when he went to bed [see Transcript, pp. 6368-71].

While said Cannalonga was in such protective custody, Government agents, particularly the said Earl Connelley, took from Cannalonga one or more written statements, the taking of which occupied in the neighborhood of four hours or more; and thereafter the said Cannalonga signed one or more of said statements [see Transcript, pp. 6354-66].

Affiant alleges it as a fact that the said Government agents, as a result of the said statement or statements taken from the said Cannalonga, and of the aforementioned records, reports, etc., well knew that the said Cannalonga was not drunk at the time he gave the aforementioned May 6 depo-

sition, and well knew that in producing Cannalonga on June 4 to testify to the contrary, they, the said agents, wilfully and knowingly participated in the presentation of evidence which they knew or should have known was false and untrue.

The materiality of said statement or statements and said records, reports, etc., to the issues in the above proceeding consists of the fact that the said Government agents in charge of the prosecution against petitioner are shown by said statement or statements and said records, reports, etc., to have attempted to, and they did, deceive the Presiding Inspector sitting at said hearing, the Board of Immigration Appeals, and the Attorney General, and by [97] reason thereof suspicion is cast upon the entire case presented against petitioner by the Government. In this connection, the Government is not entitled to be protected against the inquiry requested in the foregoing notice of motion and motion by resort to any theoretical presumption of innocent conduct, particularly in view of the fact that the identical agents of the Government who were in charge of the prosecution of the above proceeding against petitioner, have expressly been found, by the Presiding Inspector, guilty of a violation of §605 of the Federal Communications Act, in that they illegally tapped telephone wires in the room of petitioner during a period of more than two weeks, from August 5 to August 22, 1941.

[see Sears, Memorandum of Decision, Appendix, pp. 183-4].

RICHARD GLADSTEIN

Subscribed and sworn to before me this 22nd day of August, 1942.

[Seal] **DOROTHY H. McLENNAN**

Notary Public in and for the City and County of San Francisco, State of California.

(Receipt of Service.)

[Endorsed] Filed Aug. 24, 1942. [98]

In the District Court of the United States for the Northern District of California Northern Division.

NO. 1836

In the Matter of the Petition of

HARRY BRIDGES

For a Writ of Habeas Corpus.

Lee Pressman

Congress of Industrial Organizations
Washington, D. C.

Carol King

100 Fifth Avenue, New York City, N. Y.

Gladstein, Grossman, Margolis and Sawyer
560 Mills Tower, San Francisco, Cal.
Attorneys for Petitioner.

Frank J. Hennessy,
United States Attorney,
Northern District of California,

Louis R. Mercado,
Assistant United States Attorney for the North-
ern District of California,
Post Office Building, San Francisco, Cal.
Attorneys for Respondent.

OPINION and ORDER

[99]

The petitioner, Harry Bridges, an alien, in his application for the issuance of a writ of habeas corpus, attacks the legality of his detention by the United States Immigration Authorities, for deportation to Australia, on numerous grounds each of which will be considered. In answer to an order issued by this Court to show cause why the writ of habeas corpus should not be granted, the respondent, I. F. Wixon, as District Director, Immigration and Naturalization Service of the Department of Justice, made return that the petitioner is being detained "under and by virtue of a warrant of deportation duly and regularly issued by the Attorney General of the United States after a hearing duly and regularly held before a Presiding Inspector of the Immigration and Naturalization Service." The hearing referred to in the return constituted the second inquiry into the deportability of Harry Bridges. The entire record pertaining to the second deportation proceedings was submitted with the return. The

petitioner's traverse thereto does not take issue with the verity of the record thus submitted, but rather with the sufficiency of the return to justify a denial of the writ. I have, therefore, examined the petition of Harry Bridges to determine if the same alleges grounds for the issuance of the writ, considering the sufficiency of the allegations contained in the petition in the light of what is revealed by the records of the Immigration Service pertaining to the proceedings culminating in the order of deportation against petitioner.

Petitioner invokes the protection of the double jeopardy clause of the 5th amendment to the United States Constitution as a bar to the deportation proceedings resulting in his present detention. He contends that prior deportation proceedings taken against him in 1938 and 1939 involved the same charges, of which he was then cleared, as those involved in the later proceedings for which he is now held for deportation. [100]

I will not here consider the claimed identity of factual issues involved in the two deportation proceeding since in neither proceeding was petitioner charged with any offense within the meaning of the double jeopardy clause. And consequently there was no double jeopardy. The United States Supreme Court has held that a deportation proceeding is aimed at the revocation of a privilege and not as punishment for crime. (*Mahler vs. Eby*, 264 U.S. 32; 44 Sup. Ct. Rep. 283). And has stated that the constitutional protection against double jeopardy

applies only to proceedings essentially criminal, of which nature proceedings in deportation do not partake. (*Helvering vs. Mitchell*, 303 U.S., 391, 398, 399 and footnote, page 399)

In the warrant of arrest which instituted the second deportation proceedings against petitioner on February 14, 1941, it was charged of petitioner that "after entering the United States he has been a member of or affiliated with an organization, association, society, or group that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the United States; and that after entering the United States he has been a member of or affiliated with an organization, association, society, or group that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue or display, written or printed matter advising, advocating, or teaching the overthrow by force or violence of the Government of the United States."

[101]

His detention for deportation on these grounds, if established, is justified by the provisions of the Alien Registration Act of October 16, 1918, as amended by the Acts of June 5, 1920 and June 28, 1940 (8 U.S.C.A. 137) as follows:

"Any alien who was at the time of entering the United States, or has been at any time thereafter, a member of any one of the classes of aliens enumerated in this section, shall, upon

the warrant of the Attorney General, be taken into custody and deported in the manner provided in section of this title. The provisions of this section shall be applicable to the classes of aliens mentioned in this act, irrespective of the time of their entry into the United States."

One of the classes of aliens mentioned in the Act and to which the provisions of the above quoted excerpt apply are:

"Aliens who are members of or affiliated with any organization, association, society or group that believes in, advises, advocates, or teaches: (1) The overthrow by force or violence of the Government of the United States. . . ."

"Aliens who are members of or affiliated with any organization, association, society, or group that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in paragraph (d)"

Paragraph (d) mentioned in the above quotation refers to written or printed matter advising, advocating or teaching the overthrow by force or violence of the Government of the United States.

The order of deportation in the second proceeding is based upon the finding of the Attorney-General that after entering the United States in 1920, peti-

tioner has been a member of the Communist Party of the United States, and affiliated therewith and with the Marine Worker's Industrial Union, and that these organizations are within the class proscribed by statute. [102]

In the earlier deportation proceeding instituted against the petitioner in 1938 and terminating in his favor in 1939, the issue was confined to the alien's membership in or affiliation with the Communist Party of the United States at the time of the institution and prosecution of that proceeding. The issue was thus limited because of the decision of *Kessler vs. Strecker*, 307 U.S. 22, interpreting the Act of October 16, 1918 as it read prior to its amendment in 1940, to render an alien deportable upon proof of existing membership in or affiliation with proscribed organizations, but not because of any such past and discontinued membership or affiliation. The trial examiner in the first hearing found that the evidence did not establish existing membership or affiliation on the part of petitioner with the Communist Party of the United States and the Secretary of Labor, accordingly, dismissed the proceedings. By the amendment of June 28, 1940, Congress clarified its intent to include within the deportable class those aliens who, at any time since entry into the United States, have been members of or affiliated with organizations within the proscribed class, regardless of whether or not their membership or affiliation may have terminated before deportation proceedings against them are commenced. It was pursuant to this amendment

that the second proceeding against petitioner was instituted to inquire into his deportability for past membership in or affiliation with organizations proscribed by law.

I do not consider tenable the argument of petitioner's counsel that the Act as amended in 1940, reasonably construed, should be held to refer to alien membership in or affiliation with proscribed organizations found to exist either at the time of the alien's entry into the United States or at any time after passage of the 1940 amendment, but not to membership or affiliation having its inception after the alien's entry into this country but [103] terminating before passage of the 1940 amendment. The Act as amended in 1940 provides for the deportation of any alien "who was at the time of entering the United States, or has been at any time thereafter" a member of or affiliated with the described organizations. This language is sufficiently plain in its application to all cases of such membership or affiliation shown to exist at the time of an alien's entry into the United States or at any time thereafter.

Petitioner claims that since the only evidence in the second proceeding which can support a finding of former membership in or affiliation with a proscribed organization on his part relates to a period of time antedating the passage of the 1940 amendment, that consequently, as applied to him, the 1940 amendment is an *ex post facto* law. It is not an *ex post facto* law because it is not a criminal law.

"It is well settled that deportation, while it

may be burdensome and severe for the alien, is not a punishment. . . . The right to expel aliens is a sovereign power necessary to the safety of the country and only limited by treaty obligations in respect thereto entered into with other governments. . . . The inhibition against the passage of an ex post facto law by Congress in Section 9 of Article I of the Constitution applies only to criminal laws. . . . and not to a deportation act like this. . . ."

(Mahler vs. Eby; 264 U.S. 32, 39)

It appears from the findings and conclusions of the trial examiner at the first deportation hearing in 1939, that much of the evidence there relied on by the Government to substantiate its charge of the alien's deportability on the ground of existing membership in or affiliation with the Communist Party of the United States, related to past activities of Harry Bridges. This evidence was offered on the theory that such membership or affiliation, shown to have once existed, would be presumed to continue in the absence of proof to the contrary. It is petitioner's argument that although the issue of the first hearing was confined to [104] the question of his existing membership in or affiliation with the Communist Party of the United States, this issue was determined in his favor only after an investigation into his activities ever since his entry into the United States in 1920; that the scope of inquiry in these two proceedings was co-extensive; that the decision of the trial examiner in 1939 that the Government failed to establish present

membership or affiliation with the Communist Party of the United States necessarily involved a determination by him that it failed to establish any past membership or affiliation at any time since petitioner entered the United States, from which present membership or affiliation could be inferred; and that thus the question of the alien's deportability for membership in or affiliation with the Communist Party of the United States at any time was decided in his favor in 1939 and was res judicata and not open to further investigation thereafter.

Had the evidence offered in proof of petitioner's deportability been the same in each proceeding, petitioner might well argue a want of due process in subjecting him to deportation on the same ground supported by the same evidence which, after a full hearing before an impartial trial examiner, was found insufficient to establish his deportability. But such was not true in petitioner's case. Presiding Inspector Charles B. Sears, who heard the evidence in the 1941 hearing, stated on page 17 of his Memorandum of Decision, that "The evidence presented by the government before me is wholly different from that offered in 1939. Not a single witness sworn on the part of the government in this proceeding was sworn in the hearing of 1939. The charge stated in the warrant is different, for while it includes the charge which was the subject of the 1939 proceeding, it also includes a broader range, namely, membership in or affiliation with the organization at any time from the date in 1920 of the entry of the alien into this country." While the proof submitted at

the second hearing on the issue of petitioner's membership and affiliation with the [105] Communist Party of the United States, was, on the whole, new and different from that offered in the 1939 hearing, it must nevertheless be admitted that there was some evidence received at the second hearing which was also considered at the first hearing. This evidence is referred to in the footnote, on page 52, of the Memorandum of the Board of Immigration Appeals. The evidence was of a circumstantial nature relating to activities of petitioner allegedly consistent only with Communist Party membership and affiliation, such as his association with known Communists and with the Marine Workers Industrial Union, his acceptance of Communist Party aid during the 1934 Maritime Strike and his policy of nondiscrimination against Communists in labor unions. At the first hearing, the trial examiner refused to draw any inference from this class of evidence unfavorable to the alien.

At the second hearing, this evidence was again considered and, weighed with new and additional proof of petitioner's Communist Party membership and affiliation, offered for the first time in 1941, was accorded a different interpretation. The re-evaluation of this evidence at the second hearing, in the light of further evidence not theretofore produced does not, in my estimation, correspond to a relitigation of the same issues on the same probative facts. I find no want of due process in thus reopening the investigation into the deportability

of the petitioner on grounds supported by new and additional evidence not theretofore considered. Deportation is not punishment for crime. It is to remove aliens whose presence here is deemed inimicable to the welfare of the country. If this be so in any particular case, deportation cannot be frustrated by virtue of the occurrence of a prior investigation, which did not reveal all of the facts establishing cause for deportation.

Nor is there any merit to the contention that the doctrine of res judicata bars a re-inquiry into deportability. Deportation proceedings are administrative, not judicial. And a decision in a deportation proceeding is an executive decision, not a judicial determination. Decisions of the executive department do not [106] constitute res judicata. (*Pearson v. Williams*, 202 U.S. 281; 26 Sup. Ct. 608; *Flynn v. Ward*, 95 Fed. (2nd) 742.)

Petitioner claims he has been denied the equal protection of laws and thus has been deprived of due process of law. He alleges that on January 3, 1934, the Department of Labor ruled that membership in or affiliation with the Marine Worker's Industrial Union was not grounds for deportation and that ever since that time, no alien save petitioner has been subjected to deportation for membership in or affiliation with that organization, although there are thousands of aliens in the United States known by the Department of Labor and the Department of Justice to have been members of and affiliated with the Marine Worker's Industrial Union. Concededly, the discriminatory exercise of

a discretionary power vested by law in an administrative agency may constitute a denial of the constitutional guarantee of equal protection of laws to those discriminated against. But here, the obligation imposed by the Act of October 16, 1918 upon first, the Secretary of Labor and later, the Attorney-General, to deport those aliens therein designated as deportable, is mandatory and not discretionary. A failure on the part of the agency charged with this positive duty, to act in other proper cases, whatever the reason may have been that prompted the inaction, cannot on any constitutional grounds result in a grant of immunity from deportation to petitioner if he in fact comes within that class of aliens which Congress has decreed by law to be subject to deportation. (*Thompson v. Spears*, 91 Fed. Rep. (2nd) 430, 434)

The contention of petitioner that it was the sole object of Congress, in enacting the Amendment of 1940 to the Act, to effect his deportation, is answered by the following pertinent language taken from the case of *Soon Hing v. Crowley*, 113 U.S. 703; 5 Sup. Ct. Rep. 730:

“And the rule is general, with reference to the enactments of all legislative bodies, that the courts cannot inquire into the motives of the legislators in [107] passing them, except as they may be disclosed on the face of the acts, or inferable from their operation, considered with reference to the condition of the country and existing legislation. The motives of the legislators, considered as to the purposes they had

in view, will always be presumed to be to accomplish that which follows as the natural and reasonable effect of their enactments. Their motives, considered as the moral inducements for their votes, will vary with the different members of the legislative body. The diverse character of such motives, and the impossibility of penetrating into the hearts of men and ascertaining the truth, precludes all such inquiries as impracticable and futile."

The Act of October 16, 1918, as amended, is assailed upon the ground that it allegedly violates the constitutional right of free speech and freedom of assembly, in that it renders aliens deportable for membership in or affiliation with organizations whose activities do not present a clear, serious or imminent danger of accomplishing any substantive evil which the statute is designed to avert. This argument necessarily assumes that Congressional power over the admission and expulsion of aliens is not unrestricted, but that it may only be exercised within the bounds of constitutional limitations. There are indications that the law of the land is to the contrary. In *Tiaoco v. Forbes*, 228 U. S. 549, 557, 57 L. Ed. 960, 965, there was involved the question of the legality, in view of the due process clause of the Philippine Bill of Rights, of the action of the Philippine Government through its Governor-General and Legislature, in summarily ordering the deportation of a named alien. In affirming the order of deportation, Justice Holmes stated:

"It is admitted that sovereign states have inherent power to deport aliens, and seemingly that Congress is not deprived of this power by the Constitution of the United States. . . . Furthermore, the very ground of the power in the necessities of public welfare shows that it may have to be exercised in a summary way through executive officers. . . . So that the question is narrowed further to the inquiry whether the Philippine government cannot do what unquestionably Congress might."

"As Congress is not prevented by the Constitution, the Philippine Government cannot be prevented by the Philippine Bill of Rights alone."

I do not consider it necessary to uphold the validity of the Act of Congress in this case upon the broad principle that [108] Congress may, as an incident of sovereignty, expel resident aliens on any or no grounds at all. For Congress undoubtedly may, within the bounds of constitutional limitations enact legislation looking toward the expulsion of aliens whose course of conduct while residents of this country, has marked them with the possession of qualities which can reasonably be said to render their continued presence here undesirable in the interests of public welfare. By the Act of October 16, 1918, as amended in 1940, Congress has classified within the category of aliens whose presence it deems inimicable to the welfare of this country, those aliens who, through past participation by membership in or affiliation with subversive

organizations, have indicated at least a one-time disposition of hostility toward our established form of government and a willingness to see it destroyed by force and violence. In subjecting such aliens to deportation, it cannot be said that Congress has acted capriciously. Although such aliens may have discontinued their subversive affiliations, they nevertheless have manifested a spirit of disloyalty; they have shown a willingness to accept the hospitality and protection offered them by this country while participating in activities designed, not toward peaceable and constitutionally authorized changes in its government, but rather toward the eventual revolutionary and violent overthrow of the government whose protection they have enjoyed.

The Congressional assumption that such aliens do not constitute desirable material for residents or citizens of this country is not arbitrary and unreasonable and consequently, it is not in excess of Congressional power to provide for their deportation. If the result is a curtailment of their freedom of speech while in this country, it is a curtailment consonant with the constitutional guarantees of the Bill of Rights.

"It is a fundamental principle, long established that the freedom of speech and of the press which is secured by the Constitution, does not confer an absolute right to speak or publish, without responsibility, whatever [109] one may choose, or an unrestricted and unbridled license that gives immunity for every possible

use of language and prevents the punishment of those who abuse this freedom."

(*Gitlow v. People of the State of New York*, 268 U.S. 652, 666; 45 Sup. Ct. 625, 630.)

Congressional power over the deportation of undesirable aliens is co-existent with guaranteed freedom of speech. Both should be so construed that the efficacy of neither is thereby destroyed. I see no cause for complaint that Congress has not confined itself to the deportation of alien members or affiliates of those subversive organizations only whose activities present a clear, serious or imminent danger of accomplishing the evil which the legislation is designed to prevent. Aliens who, by their associations, have evidenced belief in the forcible and violent overthrow of our Government, become none the more desirable material for residents or citizens of this country because their views do not embrace the conception of immediate revolution but are directed rather to forcible and violent overthrow of organized government at some indefinite future period when the opportune moment may present itself.

Petitioner argues that the Act of October 16, 1918, as amended, should be construed to refer only to aliens who are shown to have been possessed of knowledge of the proscribed character of the organization with which they have affiliated themselves; that otherwise, the Act would lack the essential element of due process. Congress has made

alien membership in or affiliation with proscribed organizations grounds for deportation without reference to knowledge on the alien's part of the proscribed character of the organization with which he has affiliated himself. The act is not ambiguous in this regard and offers no room for the play of judicial interpretation of legislative intent. Nor is the legislation wanting in due process because it decrees deportation to be the consequence of acts voluntarily done regardless of the state of intent of the doer. In the law of crimes, unlawful acts intentionally only in the sense of [110] voluntarily done may, without violating the due process clause, be punished although the doer did not know of the unlawful nature of his acts and intended no wrong. (*Shevlin-Carpenter Co. v. Minnesota*, 218 U.S. 57; *State v. Hennessy*, 195 Pae. 211.) I do not believe that Congress acted arbitrarily in failing to consider the state of mind of an alien affiliating himself with a proscribed organization. It is reasonable to presume that a person is cognizant of the character of an organization with which he associates himself. On the other hand, proof of his actual state of mind is difficult and, in many instances, impossible. These considerations, in my opinion, afford adequate warrant, in the interests of public welfare, for the application of the deportation statute under consideration to all alien members or affiliates of proscribed organizations without regard to their intent in becoming such. Its application in individual cases will conceivably work hardship on aliens innocent of any seditious

designs. However, it is not the function of this court in this habeas corpus proceeding to consider the wisdom of legislation, but only its constitutionality.

Petitioner's remaining claims of illegal detention are directed to alleged unfairness of the deportation hearing and inadequacy of the evidence to support the order of deportation resulting in a claimed want of due process. The attack on the fairness of the proceedings will be first considered.

Petitioner asserts that the Presiding Inspector denied him his constitutional right to procedural due process in the following particulars: that he was not given a sufficient opportunity to prepare his defense; that he was denied adequate prior notice of the nature of the charges lodged against him which, as described in the warrant of arrest, were too indefinite to apprise him of the organizations with which it was alleged he was affiliated; that he was refused an opportunity to examine Federal Bureau of Investigation reports or other evidence on which the warrant of arrest was issued, and was denied a list of the witnesses whose statements were taken [111] by the Department of Justice and on whose evidence the Government relied in issuing the warrant of arrest.

The record establishes that petitioner was served with a warrant in the second proceeding on February 14, 1941 and six weeks later, on March 31, 1941, the hearing before Presiding Inspector Charles B. Sears opened. The hearing lasted al-

most two and one-half months. At its commencement, the Presiding Inspector announced that, ". . . if in the course of this hearing it seems reasonable that some opportunity should be given to Mr. Bridges to investigate any subject arising in the hearing, I will take that into consideration and will endeavor to give Mr. Bridges full opportunity, reasonably, to make investigation of the matters which are brought before him of which it might be said he had no knowledge or information." (Transcript, p. 22.). The record shows that this policy of fairness was studiously pursued throughout the hearing, and refuses petitioner's contention that, by limitation of time, he was deprived of adequate opportunity to prepare his defense.

When the hearing opened before Presidng Inspector Sears, Mr. Goodwin for the Government, made an opening statement in which he designated by name, the organizations of which petitioner was charged to have been a member and affiliate. Petitioner did not, prior to the commencement of the hearing, request any bill of particulars asking for the names of the organizations referred to in the warrant of arrest. In the first deportation proceeding, the petitioner made such a request and the Government complied therewith, naming the Communist Party of the United States. (Findings of Trial Examiner Landis, p. 1.) The assumption is justified that petitioner was not surprised when, at the opening of the second hearing, Government counsel again designated the Communist Party of

the United States as one of the prescribed organizations involved in the second hearing. If the fact is that petitioner became cognizant for the first time at the opening of the second hearing, [112] that he was also being charged with affiliation with the Marine Worker's Industrial Union, he had two and one-half months thereafter, while the hearing progressed, to meet this additional charge.

The request of petitioner to be informed, prior to the second hearing, of the evidence on which the warrant issued and the names of the witnesses upon which the Government would rely in proving its case, was denied. Petitioner does not claim the right to such information in advance of the hearing by virtue of any rule of the Department of Justice. Due process does not, as a matter of law, require these steps to be taken in an administrative proceeding. And I do not see wherein the denial of petitioner's request for this information resulted in an unfair hearing. During the course of the second hearing, lasting almost two and one-half months, petitioner was represented by counsel; he became fully acquainted with the nature of the charges made against him and was confronted with the evidence upon which they were based. He was given full opportunity to cross-examine Government witnesses and had ample time and opportunity to present competent evidence in refutation of the charges made against him. In *Seif v. Nagle*, 14 Fed. Rep. (2nd) 416, 417, the Circuit Court of Appeals of this Circuit stated:

"The objection that the alien was not permitted to examine the warrant of arrest, that the warrant was not read to him, and that the evidence upon which it was based was not shown to him, as required by rules 4 and 22, governing procedure by the Department of Labor, is not of vital importance, provided the alien had a fair hearing."

Petitioner avers he was denied due process because of certain alleged erroneous rulings of the Presiding Inspector made in the course of the hearing. He complains of the refusal of the Presiding Inspector to grant his request for subpoenas and subpoenas duces tecum for officials of the Department of Labor and the Immigration and Naturalization Service of the Department of Justice. Petitioner sought to establish through them and documents under their control that on January 3, 1934, the Immigration and Naturalization Service ruled that membership in or affiliation with [113] the Marine Worker's Industrial Union was not grounds for deportation; and that ever since said ruling, no alien save petitioner has been subjected to deportation proceedings because of affiliation with the Marine Worker's Industrial Union, although there were thousands of alien members and affiliates of such organization in the United States. The evidence sought was intended to show that the deportation proceedings instituted against petitioner operated to deny him equal protection of laws and, consequently, due process of law. I have already ruled that petitioner was not deprived of

the equal protection of laws by virtue of the facts sought to be established through this line of evidence and, therefore, find no error or want of due process in the ruling of the Presiding Inspector refusing to issue subpoenas for the production of such evidence.

Petitioner also complains that he was denied the opportunity of proving a ruling of the Commissioner of Immigration in 1934 to the effect that membership in the Marine Worker's Industrial Union should not be used as the sole ground for an alien's deportation, and a letter written by such Commissioner in December 19, 1934, to the Chief of Police at Phoenix, Arizona, stating that the Department of Labor had sworn statements in its files to the effect that the Trade Union Unity League, of which the Marine Worker's Industrial Union was a subsidiary, had, on July 1, 1933, adopted a resolution severing connection with the Red International of Labor Unions. Although this proffered evidence was excluded by the Presiding Inspector, it was nevertheless considered and weighed by him. Inspector Sears, on page 61 of his Memorandum, stated in regard to this ruling and letter:

"I excluded from evidence the advisory ruling and letter, but in considering this matter, I have treated these documents in the same manner as if they were actually in evidence. The advisory ruling was simply a factual determination for the guidance of administrative officials and has no binding effect in this pro-

ceeding. The letter contains only hearsay of the weakest variety and has no other substantiation." [114]

Petitioner complains that he was not permitted to examine prior statements of government witnesses made to agents of the Federal Bureau of Investigation, and that the denial of his request for the production of these statements constituted error. He desired these statements for whatever value they may have been to him in the cross-examination of witnesses and for impeachment purposes in the event they may have been found to contain contradictory statements. (Petitioner's Opening Brief, p. 188.) However, petitioner made no showing, in support of his request for these prior statements, that they actually contained contradictions to testimony later given on the stand, nor does the record indicate in any way that such was the fact. There is no claim made that the government suppressed evidence favorable to the alien and no such presumption can justifiably be indulged in because of the Government's refusal to produce prior statements of its witnesses. Concededly, without these prior statements, the latitude of petitioner's cross-examination may have been restricted; and better administrative practice might dictate a policy of disclosure of prior statements of witnesses. But I cannot say that the Government's refusal to disclose such prior statements rendered the hearing so essentially unfair as to result in a want of due process. Petitioner was confronted with all of the witnesses whose

testimony was considered in arriving at the final decision to deport him, and was given the opportunity of cross-examining these witnesses. He was permitted to produce evidence in his own behalf and subpoenas were issued at petitioner's request, whenever properly made, except in the case mentioned on page 9 of Inspector Sear's Memorandum and previously referred to and discussed in this opinion. I am satisfied that due process was accorded him throughout the hearing before Inspector Sears.

At the conclusion of the hearing before the Presiding Inspector, briefs were filed by counsel for the Government and the [115] petitioner. In these briefs, the factual issues involved in the deportation proceeding, and the evidence relating thereto were argued at length. Argument was also made on the constitutional and legal issues which are being raised by petitioner in this court. Thereafter, Presiding Inspector Sears, in accordance with Departmental regulations, prepared a memorandum of decision and transmitted the same to the Office of the Attorney General, together with the 7,545 page transcript of the hearing and accompanied by the numerous exhibits filed in the proceeding. The Memorandum of Decision prepared by the Presiding Inspector contains a summary and analysis of the evidence, and assigns reasons for the weight and evaluation accorded the same. The constitutional and legal issues involved were also considered, and an opinion was expressed with reference thereto. The conclusion reached by the Presiding

Inspector was that the evidence established that since his entry into the United States, the petitioner has been a member of the Communist Party of the United States, and has been affiliated with that party and with the Marine Worker's Industrial Union; and that these two organizations are within the class of organizations proscribed by the deportation statute. And appropriate findings, conclusions and order were proposed. Petitioner excepted to the proposed findings, conclusions and order of the Presiding Inspector, and the matter came before the Board of Immigration Appeals, a board established in the office of the Attorney-General and performing such powers as are conferred upon it by direction of the Attorney-General. The legal and factual issues were again briefed and there was also oral argument before the Board of Immigration Appeals. The Board found that the greater weight of the evidence did not establish that petitioner was at any time a member of or affiliated with either organization in question. The Board did not express its opinion on the character of these organizations, or the legal issues raised, save as to its interpretation of the legal meaning of the term "affiliation". The opinion of the Board carefully weighed and [116] analyzed the evidence bearing on the issue of petitioner's alleged membership and affiliation with the organizations involved, and the conflict on these factual issues were resolved in petitioner's favor. On January 3, 1942, the Board of Immigration Appeals made the following order: "The warrant

of arrest and bond are cancelled and the proceedings closed. Execution of this order is stayed pending further order of the Attorney-General or of this Board.' On May 28, 1942, the Attorney-General rendered his opinion, in which he adopted the findings and conclusions proposed by the Presiding Inspector and ordered the deportation of petitioner. The Attorney-General's opinion in support of the conclusion therein reached, is interspersed with numerous references to Inspector Sear's Memorandum, the Board Memorandum, the transcript of the hearing and exhibits filed, and to legal authority deemed controlling. It evinces a careful examination of the record and studied deliberation. Any further inquiry into his mental processes is unwarranted in this proceeding.

In view of the facts related in the foregoing paragraph, which find support in the record before me, I reject petitioner's contention, made on information and belief, that the Attorney-General reached his decision without reading the record of the second hearing, or that he was motivated by information extraneous to the record or by any other improper influences in reaching his conclusions; or that his findings and conclusions were based on any consideration save that of the evidence in the case appearing from the record submitted to him, and the law deemed applicable thereto.

Nor do I think that under the circumstances here present, the petitioner was in any way deprived of a fair hearing because he may have lacked the

opportunity of arguing his case further before the Attorney-General, or by reason of a procedural defect, if any there was, in the manner of certifying the case from the Board of Immigration Appeals to the Attorney-General. Petitioner filed briefs with the Presiding Inspector and with the Board of [117] Immigration Appeals. His side of the case, on the facts, was well presented in the opinion of the Board of Immigration Appeals. These documents were all a part of the record submitted to the Attorney-General. Petitioner makes no claim that had he been given the opportunity of arguing his case further before the Attorney-General he would have raised any point which had not been fully covered already in his briefs on file or in the Board Memorandum. The failure to give petitioner the opportunity of re-arguing his side of the case before the Attorney-General did not deny him due process.

It is claimed that the Attorney-General was without power to overrule the decision of the Board of Immigration Appeals, since there was substantial evidence to support the same. Section 90.12 of the Regulations of the Department of Justice, Immigration and Naturalization Service, empowers the Attorney-General to review the decision of the Board and to reverse that decision stating in writing his conclusions and the reasons for his decision. This regulation does not limit the review of the Board's decision to the determination solely of whether there was substantial evidence to support the same. In my opinion, it is consonant with

the purport of this regulation and the requirements of fair play, for the Attorney-General upon reference of the case to him for final decision, to contrast the Board's opinion with that of the Presiding Inspector upon whom is imposed, by departmental rules, the duty of making his recommendations regarding the decision which should properly be reached on the evidence adduced before him, and to study such evidence and if satisfied therefrom that the greater weight thereof supports the proposed findings and conclusions of the Presiding Inspector, to adopt his proposals as the final decision in the matter. A deportation proceeding is administrative, not judicial, in nature. The rules applicable to judicial proceedings do not govern. Due process in deportation hearings does not require any particular form of procedure, only that the form adopted afford the alien a fair hearing and that any order of deportation made against [118] him be based on substantial evidence.

Petitioner alleges that he has been denied a fair hearing in that, "The Attorney-General's decision fails to consider the presumption adverse to the Government created by the knowing and wilful use by Government representatives of false testimony against petitioner." The allegations of the petition do not state what testimony is alleged to be false, the materiality thereof, what government representatives are alleged to have knowingly used the same against petitioner, what knowledge of the alleged falsity thereof the Attorney-General possessed, or whether the order of deportation was

based on such testimony. I do not consider petitioner's allegations adequate to warrant the issuance of the writ on the ground that facts have been stated which, if true, would establish want of due process in the deportation proceeding taken against him. From petitioner's brief is gleaned the information that the witness alleged to have testified falsely is Maurice Cannalonga. His testimony claimed to be false is that given at the hearing on June 4, 1941, to the effect that he was drunk when he gave a statement under oath in Portland, Oregon, on May 4, 1941, contradicting his testimony previously given at the hearing on April 17, 1941. Whether or not Cannalonga was drunk when he gave the statement under oath which he later repudiated is not material to any of the issues in the deportation proceeding. Nor does it appear that any portion of his testimony which was material to the issues actually weighed to any substantial extent in the conclusion arrived at by the Attorney-General. Therefore, assuming the testimony of Cannalonga to have been false, petitioner's cause was not prejudiced since the Presiding Inspector gave no weight at all to the same. (Sear's Memorandum, page 152) and the Attorney-General, but passing and negligible consideration. (Attorney-General's Opinion, page 25.)

Petitioner does not allege that the order of deportation made against him resulted from the introduction of known perjured [119] testimony. He does not thereby bring himself within the rule of law announced in the case of *Mooney v. Holohan*,

294 U. S. 103; 55 Sup. Ct. 340, that a conviction based on perjured testimony knowingly used by the prosecuting authorities is void. It is not here claimed that Cannalonga's testimony was the basis for the order of deportation, or that the evidence relied on to support the order of deportation was fabricated. All petitioner claims is that some testimony was introduced which was known to be false by those government representatives responsible for its production, and that the Attorney-General, in his decision, failed to consider a presumption adverse to the Government resulting from the same. The record does not establish and there is no presumption that Cannalonga was produced with knowledge that he intended to give false testimony or that his testimony was in fact false. There is no allegation that the Attorney-General knew facts extraneous to the record which put him on notice that the testimony of Cannalonga was false or knowingly fabricated. He cannot be charged with having committed error in failing to consider a presumption unless he is also chargeable with knowledge of the facts giving rise to the presumption.

I am satisfied of the fairness of the hearing accorded petitioner throughout the second deportation hearing.

There remains the question of the existence of substantial evidence to support the order of deportation.

The Attorney-General found from the evidence that the Communist Party of the United States

of America, and the Marine Worker's Industrial Union, advocated the overthrow of the Government of the United States by force and violence, and otherwise came within the purview of the deportation statute; and that subsequent to petitioner's entry into the United States, and while these organizations were within the class proscribed by law, petitioner has been a member of the Communist Party of the United States of America and affiliated therewith and with the Marine Worker's Industrial Union. [120]

In the course of the deportation proceeding, petitioner did not attack the sufficiency of the evidence with respect to the proscribed character of the organizations in question. The evidence in support of the findings relating to their character is summarized by Inspector Sears in his Memorandum at pages 18-82, and referred to in the Opinion of the Attorney-General at pages 7-10. The evidence there summarized fully supports the findings based thereon, and it is not the function of this court to further review the same.

On the finding of the petitioner's membership and affiliation with the Communist Party of the United States, the evidence chiefly relied on was the testimony of Harry Lundberg that petitioner had admitted Communist Party membership to him in 1935, and evidence of statements made by James O'Neil to government representatives on two occasions in the course of the investigation into the deportability of petitioner, that he had seen petitioner posting assessment stamps in a Communist

Party membership book, and that petitioner had reminded O'Neil to attend Party meetings.

If the statements of James O'Neil had been the only proof upon which depended the attribution of Communist Party membership and affiliation to petitioner, I would not hesitate to find a complete want of substantial evidence to support the order of deportation on that ground. The statements testified to were unsigned and unsworn and there is no proof that O'Neil was asked to sign or swear thereto, or being asked, refused to do so. Consequently, their introduction in evidence, as affirmative proof of the facts allegedly stated was violative of controlling departmental regulations. (Sec. 150.1 (e) of the Regulations of the Department of Justice, Immigration and Naturalization Service). The fact that no objection was made to the use of the statements in evidence on that ground, would not seem to justify their introduction by the Government contrary to its own regulations. Moreover, the statements were [121] pure hearsay. The opportunity of cross-examining O'Neil was entirely lacking because he denied having made any portion of the statements attributed to him which was damaging to petitioner. In my opinion, the requirements of a fair hearing would not have been fulfilled if the order of deportation in this case had been based solely on this hearsay evidence, introduced in violation of departmental regulations, and consisting of proof of prior contradictory statements of a witness, offered as affirmative proof of the facts stated, with no opportunity of cross-examination being afforded the alien because the witness denies having made the statements attrib-

uted to him. However, the fact that such statements were admitted in evidence and given weight did not invalidate the proceedings if there was other substantial evidence relied on to support the order made. The admission of hearsay evidence does not of itself operate to render unfair the entire hearing. *Ex parte Shigenari Mayemura*, 53 Fed. Rep. (2nd) 621.

"Moreover, a hearing granted does not cease to be fair, merely because rules of evidence and of procedure applicable in judicial proceedings have not been strictly followed by the executive; or because some evidence has been improperly rejected or received . . . To render a hearing unfair the defect, or the practice complained of, must have been such as might have led to a denial of justice, or there must have been absent one of the elements deemed essential to due process."

(*Bilokmusky v. Tod*, 263 U. S. 149, 157).

Here, there is the testimony of Harry Lundberg that in 1935, petitioner admitted his Communist Party membership to him. Lundberg's testimony is outlined in the summary of the evidence by Inspector Sears at pages 104-107 of his Memorandum of Decision. Petitioner objects to Lundberg's testimony because showed himself to be a biased and prejudiced witness; that he had previously denied knowledge of any Communistic affiliations of Bridges; that his uncorroborated testimony of oral admissions of petitioner is in its nature essentially weak. Conceding all this, these are considerations affecting the weight and credibility of the evidence and not its competency and admissibility as proof [122] of the fact. The de-

termination as to the weight of evidence or as to the credibility of witnesses in a deportation proceeding is exclusively for the immigration authorities, in the absence of a showing that their action in this regard is arbitrary. I cannot say, as a matter of law, that the testimony of Harry Lundberg is so unsubstantial as to lend no support to a finding based thereon of past Communist Party membership and affiliation by petitioner. Particularly is this so in view of the fact that there is other evidence in the record of a circumstantial nature which, while not of itself sufficient to show proscribed membership and affiliation, does tend to lend credence to the testimony of Lundberg that in 1935 petitioner had admitted to him Communist Party membership. This evidence is reviewed in the opinion of the Attorney-General at pages 23 to 27. It consists of statements, conduct and activities of petitioner held to show a sympathetic and co-operative attitude toward the Communist Party and other Communist organizations, and a close association and co-operation with known members of the Communist Party.

There is also evidence to support the finding of the Attorney-General on the issue of petitioner's affiliation with the Marine Worker's Industrial Union in the proof connecting him with the "Waterfront Worker" as co-editor of that paper while it was a publication of the Marine Worker's Industrial Union, and as such, followed a policy of support to Communist sponsored organizations and Communist Party candidates for political office, and advocated the reading of Communist literature. There is a sharp conflict in the evidence with re-

gard to when the petitioner first became connected with the paper, petitioner claiming that he had nothing to do with the publication prior to September 15, 1933 and that at that time, it was no longer an organ of the Marine Workers' Industrial Union. The Attorney-General determined that Bridges first became connected with the "Waterfront Worker" in December, 1932 and that his [123] connection therewith continued throughout the paper's existence to 1936; and that during the entire time of petitioner's connection with the paper, it was an instrument of the Marine Worker's Industrial Union which was, in turn, an affiliate of the Communist Party of the United States. The conclusion thus drawn from the facts in evidence is not, in my opinion, unwarranted. The evidence with regard to the "Waterfront Worker" is summarized and analyzed by the Presiding Inspector in his Memorandum at pages 88 to 98. There is, further, the evidence that petitioner in 1934, recruited numerous members for the Marine Worker's Industrial Union.

Petitioner asserts that the deportation statute contains no reasonably ascertainable standard as to what acts or conduct are therein proscribed. I cannot agree. The statute specifically proscribes membership in and contribution to funds to subversive organizations. Congress has thus expressed its policy of deporting aliens who lend their active support and assistance to a proscribed organization in a manner reasonably calculated to add to its strength and consequent ability to further all of its aims and objects, including those of a subversive nature. The conduct condemned is that which can reasonably be said to

support the progress of proscribed organizations towards the recognition of their ultimate unlawful goal. It is this line of conduct which renders aliens, the non-members, nevertheless affiliates of proscribed organizations. Tested by this standard, it is my opinion that the evidence in the record hereinbefore referred to, substantially supports the finding of petitioner's affiliation with the Marine Worker's Industrial Union.

Petitioner's motion to Inspector Sears for an order for the examination of witnesses in regard to the alleged use of wire tapping tactics against petitioner by the Federal Bureau of Investigation was properly denied. The motion was based upon the claim of petitioner that wiretapping was employed against him subsequent to the second [124] hearing. If this be true, it affords no basis for the contention of petitioner that any of the evidence introduced against him at the second hearing was obtained by the use of illegal tactics.

I conclude that the record of the second proceeding inquiring into the deportability of petitioner, Harry Bridges, establishes that the order of deportation against petitioner was made after a fair hearing on substantial evidence, and no error of law occurred which operated to deprive petitioner of due process of law or any other of his constitutional rights.

The two motions pending before this Court for the issuance of subpoenas and subpoenas duces tecum for the purpose of taking depositions is therefore denied, and:

It Is Ordered, that the petition of Harry Bridges for a Writ of Habens Corpus be and the same is here-

by Denied, and petitioner is remanded into the custody of the respondent.

Dated: February 8th, 1943.

MARTIN I. WELSH,

United States District Judge.

[Endorsed]: Filed Feb. 8, 1943. [125]

[Title of District Court and Cause.]

**NOTICE OF APPEAL TO CIRCUIT COURT
OF APPEALS**

Notice Is Hereby Given that Harry Bridges, petitioner above named, hereby appeals to the Circuit Court of Appeals for the Ninth Circuit from the order or final judgment, denying the petition for a writ of habeas corpus herein, entered in this action on February 8th, 1943.

Dated: March 3, 1943.

LEE PRESSMAN,

Congress of Industrial Organizations, Washington, D. C.

CAROL KING,

220 Broadway, New York,
New York.

GLADSTEIN, GROSSMAN,

MARGOLIS, SAWYER,

By RICHARD GLADSTEIN,

AUBREY GROSSMAN,

560 Mills Tower, San Francisco, California.

Attorneys for Petitioner.

[Endorsed]: Filed March 3, 1943. [126]

[Title of District Court and Cause.]

SUPERSEDEAS BOND

Know all men by these presents that we, Harry Bridges, as principal, and George Wilson and Morris Watson, as sureties, are held and firmly bound unto I. F. Wixon, as District Director, Immigration and Naturalization Service, United States Department of Justice, at San Francisco, California, in the full and just sum of Two Hundred and Fifty. (\$250.) Dollars, to be paid to the said I. F. Wixon, as District Director, Immigration and Naturalization Service, United States Department of Justice, at San Francisco, California, his successors, executors, administrators and assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 2nd day of March, 1943.

Whereas, on February 8, 1943, in an action pending [127] in the United States District Court for the Northern District of California, Southern Division, between Harry Bridges as petitioner; and I. F. Wixon, as District Director, Immigration and Naturalization Service, United States Department of Justice, at San Francisco, California, as respondent, a final judgment or order was rendered against the said Harry Bridges and the said Harry Bridges having filed a Notice of Appeal by such final judgment or order to the United States Circuit Court of Appeals for the Ninth Circuit;

Now, the condition of this obligation is such, that

if the said Harry Bridges shall prosecute his appeal to the effect and shall satisfy the judgment in full, together with costs, interest and damages for delay, if for any reason the appeal is dismissed, or if the judgment is affirmed, or shall satisfy in full such modification of the judgment and such costs, interest and damages as the said Circuit Court of Appeals may adjudge and award, then this obligation to be void; otherwise to remain in full force and effect.

HARRY BRIDGES.

GEORGE WILSON.

MORRIS WATSON.

ACKNOWLEDGMENT AND JUSTIFICATION OF SURETIES

State of California,

City and County of San Francisco—ss.

George Wilson and Morris Watson, the sureties whose names are subscribed to the above undertaking, being severally duly sworn, each for himself, says that he is one of the sureties named in the above undertaking, that he is a resident and householder in said City and County, and is worth the sum in the said undertaking specified as the penalty thereof, [128] over and above all his just debts and liabilities, exclusive of property exempt from execution.

GEORGE WILSON.

MORRIS WATSON.

State of California,

City and County of San Francisco—ss.

On this 2nd day of March in the year One Thousand Nine Hundred and Forty-three, before me,

Dorothy H. McLennan, a Notary Public in and for the City and County of San Francisco, State of California, residing therein, duly commissioned and sworn, personally appeared George Wilson and Morris Watson known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my Official Seal at my office in the City and County of San Francisco, State of California, the day and year in this certificate first above written.

(Seal) DOROTHY H. MCLENNAN,
Notary Public in and for the City and County of
San Francisco, State of California.

My Commission expires Dec. 21, 1946.

Approval of the foregoing Supersedeas Bond is hereby agreed to,

FRANK J. HENNESSY,

United States Attorney.

LOUIS R. MERCADO,

Assistant U. S. Attorney.

GLADSTEIN, GROSSMAN,

MARGOLIS & SAWYER,

Attorneys for Petitioner. [129]

The foregoing Supersedeas Bond is hereby approved.

MARTIN I. WELSH,

Judge of the District Court.

[Endorsed]: Filed Mar. 3, 1943. [130]

[Title of District Court and Cause.]

**ORDER STAYING EXECUTION AND
ADMITTING TO BAIL.**

On motion of the petition above named, and upon consent of the respondents herein,

It Is Hereby Ordered that, upon the filing of a notice of appeal herein to the Circuit Court of Appeals, execution of and any proceedings to enforce the order and judgment entered here on the 8th day of February, 1943, be and are stayed pending the final determination of petitioner's appeal from said order and judgment, upon the filing by petitioner, and approved by this Court, of a supersedeas bond in the sum of Two Hundred and Fifty (250.00) Dollars, and the petitioner Harry Bridges shall be; and hereby is ordered to be admitted to bail in the sum of Three Thousand (\$3,000.) Dollars, pending the final determination of said appeal; and that, upon the filing of such bail or bond, the bail or bond heretofore filed in this action shall be discharged and released, and the sureties thereon exonerated. [131]

Dated: March 3rd, 1943.

MARTIN I. WELSH,

United States District Judge.

The above order is hereby agreed to.

FRANK J. HENNESSY,

United States Attorney.

LOUIS R. MERCADO.

GLADSTEIN, GROSSMAN,

MARGOLIS & SAWYER,

Attorneys for Petitioner.

[Endorsed]: Filed Mar. 3, 1943. [132]

[Title of District Court and Cause.]

**STIPULATION AS TO RECORD
ON APPEAL**

It is hereby stipulated by and between the parties hereto that the record on appeal herein shall consist of the following items:

1. Petition for writ of habeas corpus, and exhibits thereto attached.
2. Order to show cause why writ of habeas corpus should not be granted.
3. Return to order to show cause.
4. Amended petition for writ of habeas corpus, and exhibits thereto attached.
5. Traverse to government's return.
6. Notice of motion and motion for order to take depositions, and affidavit thereto attached.
7. Notice of motion and motion for issuance of subpoena duces tecum, and affidavit thereto attached.
8. Transcript of the evidence. [133]
9. Original exhibits in evidence.
10. Opinion and order of the District Court, filed herein on February 8, 1943.
11. Judgment.
12. Notice of appeal.
13. This stipulation.

Dated: This 5th day of May, 1943.

FRANK J. HENNESSY,
United States Attorney.
GLADSTEIN, GROSSMAN,
SAWYER & EDISES,
Attorneys for Petitioner and
Appellant.

[Endorsed]: Filed May 3, 1943. [134]

[Title of District Court and Cause.]

ORDER RE RECORD ON APPEAL

Upon stipulation of the parties hereto,

It Is Hereby Ordered as Follows:

1. The Clerk of the above-entitled court shall release and send to the United States Circuit Court of Appeals for the Ninth Circuit, for inspection by that court, and in lieu of copies, the original exhibits in evidence in the proceedings before the Department of Justice.

2. The Clerk of the above-entitled court shall release and send to the United States Circuit Court of Appeals for the Ninth Circuit, in lieu of any additional copies of the transcript of proceedings before the Department of Justice, one copy of the transcript heretofore filed with the said clerk; and the filing of additional copies of said transcript by appellant shall not be required.

3. The Clerk of the above-entitled court shall release and send to the United States Circuit Court of

Ap- [135] appeals for the Ninth Circuit, and in lieu of additional copies, one each of the following opinions and decisions, copies of which have heretofore been filed with the clerk of said court:

- A. The findings and conclusions of James M. Landis, trial examiner.
- B. The memorandum of decision by Charles B. Sears, presiding inspector.
- C. The findings of fact, conclusions of law, decision and order of the Board of Immigration Appeals.
- D. The findings of fact, conclusions of law, decision and order of the Attorney General,

and the filing by appellant of additional copies of said opinions and decisions, or any of them, shall not be required.

4. The following portions of the record on appeal need not be printed, and copies thereof, already in printed form, to a number to be fixed by said Circuit Court of Appeals, may be filed with the clerk of said Circuit Court of Appeals, and thereafter integrated with those portions of the record which are printed:

- A. The findings and conclusions of James M. Landis, trial examiner.
- B. The memorandum of decision of Charles B. Sears, presiding inspector.
- C. The findings of fact, conclusions of law, decision and order of the Attorney General.

Dated: This 6th day of May, 1943.

LOUIS E. GOODMAN,

Judge of the United States District

Court. [136]

It is hereby stipulated that the above order may issue.

Dated: This 5th day of May, 1943.

FRANK J. HENNESSY,
United States Attorney.
GLADSTEIN, GROSSMAN,
SAWYER & EDISES,
Attorneys for Petitioner and
Appellant.

[Endorsed&: Filed May 8, 1943. [136a]]

[Title of District Court and Cause.]

**ORDER EXTENDING TIME FOR FILING
RECORD AND DOCKETING APPEAL**

Upon the stipulation of the parties hereto, and for good cause,

It Is Hereby Ordered that the time within which the record on appeal herein may be filed and the appeal docketed in the Circuit Court of Appeals for the Ninth Circuit is extended until the 1st day of June, 1943.

Dated this 9th day of April, 1943.

A. F. ST. SURE,
United States District Judge.

[Endorsed]: Filed April 9, 1943. [137]

United States Circuit Court of Appeal
for the Ninth Circuit.

No. 10450

HARRY BRIDGES,

Appellant.

vs.

I. F. WIXON, as District Director, Immigration and
Naturalization Service, Department of Justice.

Appellee.

ORDER EXTENDING TIME TO FILE
RECORD AND DOCKET APPEAL.Upon the stipulation of the parties hereto, and
for good cause,It Is Hereby Ordered that the time within which
the record on appeal herein may be filed and the case
docketed in this Court is extended until the first day
of August, 1943.

Dated this 24th day of May, 1943.

CURTIS D. WILBUR,

Judge of the United States
Circuit Court.

[Endorsed]: Filed May 24, 1943. [138]

CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO TRANSCRIPT ON APPEALI, Walter B. Maling, Clerk of the United States
District Court for the Northern District of California,

nia, do hereby certify that the foregoing 138 pages, numbered from 1 to 138, inclusive, contain a full, true and correct transcript of certain records and proceedings in the matter of the petition of Harry Bridges for a writ of Habeas Corpus, No. 1836, as the same now remain on file and of record in this office; said transcript having been prepared pursuant to and in accordance with the Stipulation as to Record on Appeal, copy of which is embodied herein.

I further certify that the cost of preparing and certifying the foregoing record on appeal is the sum of Twenty-three and 85/100 (\$23.85), Dollars, and that the same has been paid to me by the attorneys for the appellant herein.

In witness whereof, I have hereunto set my hand and the official seal of said District Court, this 2nd day of June, A. D., 1943.

[Seal] **WALTER B. MALING,**
 Clerk.

By **F. N. LAMPERT,**
 Deputy Clerk. [139]

Before the Immigration and Naturalization Service
United States Department of Justice

Case No. 55973/217

In the Matter of

HARRY R. BRIDGES

Deportation Hearing

Court Room 276,
Federal Building,
San Francisco, California,

March 31, 1941.

Met, pursuant to notice, at 10:00 A. M.

Before: Charles B. Sears, Presiding Inspector.

Appearances:

Albert Del Guercio,
Clarence N. Goodwin,
Paul V. Myrom, and
Trent Doser,

appearing on behalf of the Immigration
and Naturalization Service, United States
Department of Justice.

Carol King,
Richard Gladstein, and
Aubrey Grossman,

Mills Tower, San Francisco, California,
appearing on behalf of the Alien. [1*]

*Page numbering appearing at top of page of original Reporter's
Transcript.

PROCEEDINGS

Presiding Inspector: We will begin the hearing.
Is the Alien present?

Mr. Bridges: Yes.

Presiding Inspector: Will you stand up, Mr. Bridges?

(Whereupon the Alien, Mr. Bridges, stood.)

The rules of the Department require me to first permit you to inspect the Warrant of Arrest. Have you seen it?

Mr. Bridges: I haven't.

Mr. Del Guereio: I have the original Warrant of Arrest, and I may state that it was served upon the Alien here at San Francisco on February 14, 1941.

Presiding Inspector: He has a right at this time to inspect it.

(Whereupon the Warrant of Arrest was handed to Mr. Bridges.)

Mr. Del Guereio: I will show the Alien the original, and I have a copy of the original which I offer in evidence as Exhibit No. 1.

Presiding Inspector: Will you have it marked?

(The document referred to was received in evidence and marked Government Exhibit No. 1.)

Presiding Inspector: The regulations require to read this to you, Mr. Bridges, to let you know verbatim what it contains and explain it to you. The Warrant provides:

The Act of October 16, 1918, as amended by the Acts of June 5, 1920, and of June 28, 1940, have been violated in that after entering the United States he has been a member of or affiliated with an [2] organization, association, society, or group that believes in, advises, advocates or teaches the overthrow by force or violence of the Government of the United States; that after entering the United States he has been a member of or affiliated with an organization, association, society, or group that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue or display, a written or printed matter advising, advocating, or teaching the overthrow by force or by violence of the Government of the United States.

Now, to explain that to you, of course, I may call those groups, societies, associations, organizations, by a single name, and call them "groups" for the sake of simplicity; and the charge is that you have been a member of or affiliated with such groups, and those groups are alleged to be groups which advocate, I do not use the synonymous or varying words—advocate the overthrow of the Government of the United States by force or violence. We may call that subversive for simplification of language.

Then, it also charges that you have been a member of or affiliated with such groups which publish, or advertise, or seek to circulate subversive literature, that is, literature which advocates, ad-

vises or encourages the subversive enterprise, that is, the overthrow of the Government of the United States by force and violence.

I hope I have made that clear to you. You probably already understand it fully as well as anyone else in the [3] court room, but the regulations of the Department require me to explain it to you.

Now, you are represented by counsel, Mr. Bridges?

Mr. Bridges: That is correct.

Presiding Inspector: And have you given the names of your counsel to the reporter?

Mrs. King: The reporter has the names, yes.

Presiding Inspector: Will you state who they are for my benefit, Mrs. King? I know your name.

Mrs. King: Well, for the—you know me—and then this is Mr. Richard Gladstein (indicating), I would like to present to your Honor, and Mr. Aubrey Grossman I would also like to present to your Honor, both of San Francisco, who can be located in the Mills Tower if your Honor should wish to get in touch with them between sessions.

Presiding Inspector: Very well.

Are there present other counsel to take part in the—

Mrs. King: Not at the present time, and there may not be if there is no—

Presiding Inspector: (Interposing) Oh, it is not material; I simply ask for information.

Mrs. King: I doubt it. Mr. Gladstein and Mr. Grossman are members of the firm of Gladstein, Grossman, Margolis and Sawyer, and they may

later get assistance from that firm, but substantially you have counsel before you.

Presiding Inspector: My said duty is to place the alien under oath or affirmation.

Will you rise and raise your right hand. [4]

(The oath was thereupon duly administered to the alien, Harry Renton Bridges, by the Presiding Inspector.)

Presiding Inspector: I am required to advise you of the penalty for perjury.

What is the fine, Mr. Scofield?

Mr. Scofield: \$10,000.00.

Presiding Inspector: The penalty for perjury is a maximum punishment of five years imprisonment and \$10,000 fine; that is the maximum.

I have already entered on the record the warrant of arrest.

I am also required to advise you of the provisions of Paragraph C concerning applications for the privilege of departure in lieu of deportation or suspension of deportation.

Under the provisions of Section 19 (c), briefly—I don't suppose you care to be advised in detail about this—you have the right to make application for voluntary departure from the country or for a suspension of the deportation under circumstances in case of reasons such as having members of the family who are American Citizens; and such things. I can give you the details if you would like to have them but I doubt if they have any materiality here.

You waive that do you not?

Mrs. King: I just wanted to say that Mr. Bridges waives [5] that explanation, and he understands it will be explained in toto by counsel. It is unnecessary for you at this time to go into the problem.

Presiding Inspector: I thought you would take that attitude.

Mrs. King: Because Mr. Bridges is not intending to depart voluntarily and he is fighting to remain in the United States and become a citizen.

Presiding Inspector: Well, it is my duty under the regulations to make these explanations.

Now, we will let the Government.

Mr. Del Guercio: May I ask that Mr. Bridges take the stand, please?

Mrs. King: If your Honor please, at this time I should like to suggest that counsel for Mr. Bridges feel that it is unfair for Mr. Bridges to have to take the stand before the Government re-develops its case, in view of the fact that there has been this extended hearing before Dean Landis, which you are undoubtedly familiar with, and the law seems to be plain that the burden of proof is on the Government.

If I may, I would like to present to your Honor a memorandum with reference to the problem of the alien not having to take the stand until the Government's case has been presented.

Presiding Inspector: You may present the memorandum. [6]

Mr. Del Guercio: Are you furnishing us with a copy?

Mrs. King: Yes, surely.

Presiding Inspector: Before we go into this, at the time you, Mrs. King, made the motion in Washington for a continuance you presented certain papers to me which I said would be a part of the record. I have them here. I wish you would look at them and see that these are the papers and then I will hand them to the reporter to have them marked.

Mrs. King: (Examining documents) These seem to be.

Presiding Inspector: Then, they may be marked.

The Reporter: How many are there, please?

Mrs. King: The question was put, "How many are there?" It depends whether each affidavit is counted separately.

Presiding Inspector: Oh, I think not, as they are folded together. Let each separate bundle be marked with a single number.

(The documents referred to were received in evidence and marked Alien's Exhibits 1, 2, & 4.)

Mr. Del Guercio: If the Court please, I believe we could save time if counsel for the Alien understands the reason why he is called. I believe the Government of course, could call the Alien to stand here at any time. Under Section 16 of the 1924 Act we may compel his testimony, requiring him to appear and testify under subpoena, if necessary.

Now, the purpose of calling Mr. Bridges at this

time is to merely ask him his name, identify him as being the person [7] named in the warrant, and establish through him alienage.

Now, I believe his counsel there would even stipulate as to that, and that is the only purpose at this time of calling Mr. Bridges, not of examining him extensively.

Mrs. King: We are quite willing to stipulate to that, and one of the reasons that I jumped up, perhaps too fast, is that we have certain motions that we should like to make before any of the testimony in the case is in. [8]

Mr. Del Guereio: I believe it would be improper, if the Court please. I believe that we have a right to call Mr. Bridges at this time without waiting to hear any motions on his behalf.

Mrs. King: It seems to me that this—

Presiding Inspector: (Interposing). Well, I think that this is a very small point; it really doesn't matter.

Will you let Mr. Bridges testify to his alienage and then we will allow the motion to be made just as though no testimony had been received?

Mr. Gladstein: Very well, your Honor. Take the stand.

HARRY RENTON BRIDGES

was called as a witness on behalf of the Government, and having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Del Guereio:

Q. What is your name?

A. Bridges; Harry R. Bridges; Harry Renton Bridges.

Q. Where do you reside?

A. My present private address?

Q. Yes.

A. 54 Upper Terrace, San Francisco.

Q. What is your occupation, Mr. Bridges?

A. At the present time I am a Union official, generally a longshoreman when I am not a Union official.

Q. You say "A Union official." Just what do you mean? [9] What is your present position exactly?

A. President of International Longshoremen's and Warehousemen's Union.

Q. Are you the Harry Renton Bridges named in this Warrant? A. I am.

Q. Where were you born, Mr. Bridges?

A. Melbourne, Australia.

Q. What date? A. July, 1901; July 28th.

Q. July 28th? A. Yes.

Q. What is your father's name?

A. Alfred Ernest Bridges.

Q. And where was he born?

(Testimony of Harry Renton Bridges.)

A. New South Wales, Australia.

Q. New South Wales, Australia. Of what country is your father a citizen?

A. Well, born in Australia, makes him a subject of Great Britain.

Q. So far as you know, he is a citizen of Australia? A. Absolutely, born there.

Q. What is your mother's maiden name?

A. Doigan; Doigan, D-o-i-g-a-n.

Q. Doigan. Where was she born? [10]

A. Ireland, Dublin.

Q. Of what country is she a citizen?

A. Great Britain.

Q. Of what country are you a citizen, Mr. Bridges?

A. I presume I would be the same; Great Britain.

Q. Well, "you presume"; you mean you are; you know that you are a citizen of Great Britain.

A. That is correct, outside of the application I have filed.

Q. What is your—outside of the application on file? Just what do you mean by that?

A. (No response.)

Mr. Gladstein: May I interrupt to suggest, your Honor—

Presiding Inspector: Yes.

Mr. Gladstein: I doubt whether the witness should be questioned as to the legal effect upon his citizenship, upon his being a citizen of the British

(Testimony of Harry Renton Bridges.)

Empire by the fact that he has heretofore filed an application for citizenship in the United States.

Presiding Inspector: You don't claim that you are a citizen of the United States?

The Witness: No, your Honor.

Presiding Inspector: I think that is sufficient at this time.

Mr. Gladstein: Thank you. [11]

Mr. Del Guercio: Yes.

Q. (By Mr. Del Guercio) What is your marital status, Mr. Bridges?

A. I didn't get the question.

Q. What is your marital status? Are you married— A. Yes.

Q. Or single? And to whom are you married?

A. To whom?

Presiding Inspector: Your wife's name.

By Mr. Del Guercio:

Q. What is your wife's name?

A. Agnes Brown was her maiden name.

Q. Agnes Brown; that is her maiden name?

A. Yes, sir.

Q. Where were you married?

A. San Francisco.

Q. What date? A. 1934.

Q. 1934. What month? A. May.

Q. May 1934? A. Yes, sir.

Q. In San Francisco? A. San Francisco.

Q. Do you have any children of that marriage?

A. Two children; oh, one step-son, I should say. [12]

(Testimony of Harry Renton Bridges.)

Q. One step-son? A. One step-son.

Q. And one child, your own child?

A. Yes.

Mr. Del Guerejo: That is all.

Presiding Inspector: That is all for the time being.

(Witness temporarily excused.)

Mrs. King: If your Honor please, this is the second time in considerably less than two years that Mr. Bridges has been put on trial in San Francisco to defend himself against charges made against him by the Immigration and Naturalization Service.

At the first hearing, as you know, Dean James M. Landis found that there was no credible evidence that Harry Bridges was a member of the Communist party, and we are here assuming—although the Government has not yet informed us—that the organization with which Mr. Bridges is charged with affiliation or membership, is the Communist party.

Now, he is to be tried again on a substantially identical charge, for Dean Landis examined evidence not alone of present membership but of the then past membership of Harry Bridges.

It will be recalled that in the previous trial Mr. Bridges was charged both with present and past membership, [13] and that appears both in the Warrant of Arrest that originally issued in 1938 and the amended Warrant of Arrest which the Service

issued shortly before the hearing in 1939. That present and past affiliation was likewise mentioned in the two warrants of arrest. That hearing lasted eleven weeks; the Government called 32 witnesses; the record, without exhibits, of which the Government introduced some 138 exhibits, totalled close to 8,000 pages.

At the close of the hearing Mr. Bridges was completely exonerated in the findings and conclusions of Dean Landis, and I should like at this time to request that the findings and conclusions of Dean Landis, if they are not part of the present record, be made a part thereof.

Mr. Del Guercio: I object to that, your Honor. I believe this is all without the issue. We are not concerned here at this time with what occurred at the previous hearing. This is an entirely new proceeding based on a new warrant, has no connection whatsoever.

Presiding Inspector: That may be so. I will hear Mrs. King.

Mrs. King: If your Honor please, as I understand it, this case has the same number as the old case; it is part of the record, and ordinarily the immigration file becomes automatically part of the new hearing, and there is no problem as to that.

Mr. Del Guercio: That is an incorrect statement, if your Honor please.

Presiding Inspector: Well, I will hear Mrs. King.

Mrs. King: Now, I should like to finish. Regardless [14] of this problem of the introduction, which I will take up later, of Dean Landis' report,

I should like to finish on the problem of the motions which I wish to present to your Honor.

Now, proceedings are now instituted against Mr. Bridges. The excuse given is that there is a new law, passed last year, requiring deportation for past membership. The Government also claims apparently that there is new evidence.

As to the new law, we say that this is no excuse. Witnesses at the last hearing testified to past membership. Testimony of past membership was given by each and every one of the witnesses that testified to membership at all.

These witnesses were Laurence A. Milner, John L. Leech, Aaron Sapiro, Miles G. Humphries, John L. Leppold, Theodore M. Stark, Frederick Allen, William H. Howard, Eugene G. Detrich, James W. Engstrom, John R. Davis, Gordon C. Castor, Joseph W. Marcus, John A. Kessler, John Mickle-son, Cleo Zanazzi, William H. Penoat.

This, as I say, included every witness as to membership or affiliation, and these witnesses testified to past membership, some of them a number of years, quite a number of years prior to the issuance of the warrant of arrest, and Dean Landis made it quite plain that he did not believe these witnesses at that hearing.

I shall not burden you long, but I should like to read a few of the comments with reference to these witnesses.

He said with reference to Laurence Milner that

"His testimony is deserving of little, if any, credence." [15]

Presiding Inspector: Do you think it is going to help us to read the matter? If it is proper to receive it, why it will all be there.

Mrs. King: All right.

Presiding Inspector: And if it isn't proper to receive it, why, your telling us about it won't help.

Mrs. King: Anyway, I can say that in summarizing the findings and conclusions that none of this evidence was believed by Dean Landis.

Mr. Bridges came to this country 21 years ago. The last hearing, its length, and the number of witnesses the Government called, serves to indicate that the Government had then investigated all of the acts and statements of Mr. Bridges from the date of his lawful entry on April 12, 1920, until the date of this hearing in 1939. When I say "this hearing" I mean the first hearing in San Francisco against Harry Bridges.

The question is: Is Mr. Bridges to be retried each time his enemies dig up some new witness to testify against this leader of the CIO? For Mr. Bridges we claim the present proceeding cannot legally and constitutionally be brought and we have, in so far as was possible in the brief time allowed to us, prepared a *memoranda* of law to support our conclusions. These conclusions are that the present proceedings serve to place Mr. Bridges twice in jeopardy, in violation of the Fifth Amendment to the Federal Constitution; that the matter is res judicata and cannot properly be reopened; that the

new law [16] under which the present proceedings are brought is unconstitutional and in violation of the First, fifth and Eighth Amendments to the Constitution of the United States; and that its application to Mr. Bridges for alleged conduct preceding its enactment constitutes an ex post facto law violating Article I, Section 9 of the United States Constitution; that all of these matters separately, and especially all of them taken together, serve to deny Mr. Bridges that due process of law to which he is guaranteed by the Fifth Amendment of the Constitution of the United States.

We, therefore, ask that the present proceedings be dismissed in accordance with law, and that the Warrant of Arrest be cancelled and that the bail be exonerated.

Now before your Honor says anything further may I request that I be permitted to file a motion to dismiss, and memoranda of law with reference to the problem of double jeopardy, the fact that this is an ex post facto law with reference to res judicata and with reference to the problem of due process. [17]

Presiding Inspector: Well, of course, in the proper Court you will be entitled to be heard on those matters, and in the proper Court the fact that you have made this motion will be given due weight, I have no doubt, but it seems to me that the motion is irrelevant to my duties here.

I will look at the brief, as you requested, and will not rule upon it finally at this time.

We will go on with the case.

Mrs. King: Before I give you the briefs, just as a matter of mechanical detail, I should like to make a further application, which, I believe, is within your jurisdiction—of course I think that all of this is within your jurisdiction, but assuming, for the purpose of the coming application, that this is a matter for the Courts rather than for your Honor, I should like to say that we seek to have the issues of this case limited so that we are not required, at least to re-try issues which have been disposed of. For this purpose we ask that the Government be restricted in the introduction of evidence.

The former hearing closed on September 14, 1939. We respectfully ask that you refuse to admit any testimony dealing with any act or statement the time of which was prior to September 14, 1939, that is, the date of the close of the last hearing.

When that hearing came to a close, events up to that date [18] were disposed of. At least that period of time cannot be covered again without violating the principles of both double jeopardy and res judicata.

Finally, there must come an end to litigation.

I should like to submit to your Honor, before you rule on the second point, the memoranda with reference to these questions, and I shall at the same time give Government counsel a copy of each.

Presiding Inspector: Of course, you realize Mrs. King, that this is not a judicial, but an administrative hearing. I am anxious that it have all

the dignity of a judicial hearing and all the protection to the parties that the law throws around a judicial proceeding. I do not mean by that the rules of evidence, I mean to say the fundamental doctrine of fairness, fair play, which lies at the basis of our American law.

I will read your memorandum. I do not know whether counsel would like to read it before saying anything about it, but I won't stop the production of evidence at this time.

Mr. Del Guercio: I do not believe it is necessary. I believe our opening statement will satisfactorily answer counsel's position.

Mrs. King: Now, if your Honor please, I am sorry to impose on you longer, but I should like at this time to renew the application for the inspection of evidence on which the Warrant of Arrest issued. [19]

I have also prepared a memorandum of law, as well as a written motion, with reference to this problem.

It seems to me that the alien, Harry Bridges, is seriously handicapped when he has been here for 21 years, and has no knowledge of what the Government is going ahead to try and prove on him, if the Government is not somewhat limited in providing material concerning which we have prior notice.

I am not trying to say they would be barred, but I say we are entitled to some notice, and that the Department of Justice, the Attorney General himself, has recently, through his Committee on Ad-

ministrative Procedure, made it plain that that kind of notice is part of appropriate judicial procedure.

In this connection I would like to read what he says, what the Committee said in its final report:

"In fixing the time and places for formal and informal proceedings due regard shall be had for the convenience and necessity of the parties involved or their representatives."

Now, in addition to that the separate Committees dealing with the separate administrative branches of the Government—for instance, the procedure with reference to the Federal Communications Commission states:

"The preparation of the issues to be included in the Notice of Hearing is now given much more time and consideration by the members of the legal staff than was formerly the case. For one thing, notices of hearing now leaving the Commission do not contain among the issues the overly-generalized [20] 'Whether the granting of this application shall serve public interest, convenience and necessity.'"

Now, we contend that this generalized charge in the Warrant of Arrest, that Mr. Bridges should show cause why he should not be deported because he is a member of or affiliated with—as set out therein—that we have no notice at all of the real charge against him.

The old rules of the Immigration Service, as I said in Washington, provide that at the opening of the hearing counsel for the Alien was entitled as

a matter of right to see the evidence on which the Warrant issued.

It seems to me that the other administrative bodies—and I have collected in the memorandum the references to statements with reference to the other administrative bodies—were coming closer to giving you judicial notice and a Bill of Particulars of the offense or the charge, and that it is quite improper to expect Mr. Bridges to go on trial, after this length of time, without real knowledge of what he is charged with.

Mr. Bridges has been in the United States, I think we calculated some 7650 days, and in all that time we really do not know what day, what act, what statement he made, or what act he did that brings him, according to the Government, within the terms of this Immigration Law.

So I should like to renew both my motion and my memorandum, [21] my application to your Honor, to examine the evidence on which the Warrant is issued, or at least to be apprised of the names of the witnesses, so that we can really get an opportunity to prepare for this hearing.

(Whereupon the memoranda above referred to were passed to the Presiding Inspector.)

Presiding Inspector: Mrs. King, this motion was made practically in the same form before me in Washington. I then denied it.

I will receive at this time your memorandum and will examine it. However, in the meantime I am going to deny this motion. I think the matter is one for the discretion of the Department of Justice, and is not a legal right.

~~It may be that when you have heard the opening statement, which has been intimated will be made here, you will be satisfied.~~

I will say further, however, Mrs. King, that if in the course of this hearing it seems reasonable that some opportunity should be given to Mr. Bridges to investigate any subject arising in the hearing, I will take that into consideration and will endeavor to give Mr. Bridges full opportunity, reasonably, to make investigation of the matters which are brought before him of which it might be said he had no knowledge or information.

Anything else, Mrs. King? [22]

I will read this memorandum (Indicating) and if I think I am wrong it will be no hardship for me to say so, and then make an opposite ruling.

Mrs. King: If your Honor pleases, I will file at this time two motions:

1. The motion to dismiss.
2. The motion for examination.

Also the memorandum on the latter.

Presiding Inspector: I will receive the briefs.

(The documents referred to were passed to the Presiding Inspector.)

Mrs. King: I should also like to file, and I am not quite sure whether I have already done it, a memorandum of law on the subject of—

Presiding Inspector: Didn't you file it?

Mrs. King: I don't know whether I did or not—I have reference to res judicata and double process.

Presiding Inspector: Res judicata?

Mrs. King: Yes.

Presiding Inspector: Res judicata, that one is gone.

Mrs. King: All right.

Presiding Inspector: There is one blank folder here. It has no title on the outside.

Mr. Del Guercio: If the Court please, I forget to ask Mr. Bridges just one question regarding his entering the United States. [23]

Presiding Inspector: You may ask him right there.

HARRY RENTON BRIDGES

was recalled as a witness on behalf of the Government, and having been previously duly sworn, testified further as follows:

Direct Examination (Resumed)

By Mr. Del Guercio:

Q. When did you enter the United States?

A. April 1920.

Q. Is that the first time you entered the United States? A. Yes.

Q. And in what manner?

A. As a seaman. I had been here before, but never entered.

Q. What was the name of the vessel on which you arrived? A. Barkentine Ysabel.

Q. At what port? A. San Francisco.

Q. And you have been here continuously since excepting for several departures as a seaman?

A. Yes. I have been in San Francisco since

(Testimony of Harry Renton Bridges.)

1922 and in the years between, two years between,
I was a seaman on American vessels.

Mr. Del Guercio: That is all. Thank you.

(Witness excused.)

Mr. Del Guercio: May we make our opening statement? [24]

Presiding Inspector: Yes.

Mr. Goodwin: There are some things, your Honor, that are a little extraneous to the merits of the case, but which, in justice to the Attorney General and the Administration, should be said at this time, and very briefly.

If has been suggested, and there are some who have suggested, that this proceeding is inspired by the influence or pressure of those who desire the deportation of the Alien, not because of his membership in or affiliation with the Communist Party, but because they wish to get rid of him as a disturbing factor in industrial relations. There is nothing that has occurred in the history of this case, or in the history of this Administration, that justifies in any way any such inference or suggestion and it is resented.

Many of those protesting those proceedings have in their zeal even asserted that the issuing of this second warrant by the Attorney General constitutes a persecution. Here, again, nothing could be further from the truth. I call attention to the fact that after the conclusion of the first hearing there was introduced in the House of Representatives a

bill which provided, "That notwithstanding any other provision of law the Attorney General be, and is hereby, authorized and directed to take into custody forthwith and deport forthwith to Australia, the country of which he is a citizen or subject, the alien, Harry Renton Bridges, whose presence in this country the Congress [25] deems hurtful." That bill passed the House of Representatives by an overwhelming majority and was referred by the Senate to its Committee on Immigration. Thereupon, the Attorney General wrote the Chairman of that Committee denouncing the bill as a departure from an unbroken American practice and tradition, and that as an American he would not, for the sake of his own liberty, deny the protection of uniform and indiscriminatory laws and a fair hearing to even the humblest or meanest of men, and that as an official of the United States he could not, in good conscience, do other than recommend strongly against the bill. The alien is, therefore, still here in this country with his status under investigation by a distinguished and learned judge because of the action taken by the Attorney General of the United States which prevented his summary deportation.

Now, your Honor, proceedings of this character are ordinarily conducted by the regular officials of the Immigration Service, but the Attorney General in view of the importance of this matter determined that hearing ought to be conducted by someone entirely outside of the Government, and he therefore selected a former Justice of the Supreme Court of

the State of New York, later a Judge of the Court of Appeals of that State, to conduct the hearing. Therefore, it must be evident to any fair-minded man that the Attorney General and the Administration have done everything in their power to [26] assure to the alien a fair, impartial and orderly hearing.

It is necessary at the outset to say something in regard to the character of the instant proceeding and the principles governing it. An orderly presentation of the case seems to require such a statement at this time.

In the first place, it must be emphasized that the statute under which these deportation proceedings are brought is neither criminal nor penal, but is, on the contrary, a remedial statute enacted in the interest of furthering the great constitutional purpose of insuring domestic tranquility and promoting the common defense.

The deportation of the alien in the instant case is sought under a statute compelling the issuing of a deportation warrant in any case where an alien has at any time been a member of, or affiliated with, an organization that advises, advocates or teaches the overthrow by force and violence of the Government of the United States, or of an organization, association, society or group that believes in, advises, advocates or teaches the unlawful damage, injury or destruction of property or sabotage.

To determine the character and purpose of such statutes there must be an understanding of the

compelling circumstances which make their enactment necessary.

From its earliest inception this Government welcomed to these shores the oppressed and disinherited of all the world. [27] At the same time, however, it made it clear that entry and domicile were not matters of right and that continued residence here depended upon the sovereign will as expressed by the Congress of the United States. While the Congress extended a broad and generous hospitality, the interests of the United States remained paramount, and it was imperative that the Congress should determine from time to time, the conditions under which aliens might enter and the conditions under which they might remain. There have, moreover, been developments in the last half century which have made the question of fixing these conditions important and serious, and this can be best illustrated by a glance at the conditions with which we are confronted at the present hour.

We have now nearly five million registered aliens, coming from every known part of the world, having every known concept of government, every conceivable political belief and with every conceivable standard of conduct and attitude towards society. They are all our guests and none of them owe allegiance to the United States; they may properly remain only so long and under such conditions as Congress may from time to time impose with an eye single to the welfare of the United States. No nation on this earth has extended to so many aliens such generous hospitality. Obviously, however, the

presence here of this great undigested alien mass, a large part of which, through oppression and tyranny, has become infected with a hatred of all Government, creates a disturbing problem in times of peace [28] and a menace in times of war.

As indicated, the object of deportation statutes is not in any degree or in any way to inflict punishment on the alien, but to protect the citizen and the welfare of the country. The Congress of the United States may at any time properly provide for the deportation of aliens for reasons entirely apart from acts of criminality or misconduct and neither in the case grounded on misconduct or on innocent action or inaction is the result punishment not the infliction of a penalty. The result may be disadvantageous, but it is disadvantageous alike whether grounded on innocent or criminal action.

This disposes of the suggestion that by this hearing the alien is subjected to double jeopardy. As this is not a criminal action or a proceeding under a penal statute the principles and reasoning which apply to such statutes have no application here.

In the case of penal or criminal statutes, your Honor, the purpose of the statute or the law is punishment, and for centuries practically the only punishment inflicted even for the smallest infraction of the law was death. Therefore, in view of the fatal consequences which followed conviction there were developed numerous safeguards for the benefit of the accused. They included the rule that no man should be twice put in jeopardy for the same offense although it might be made definitely certain that newly discovered evidence made his actual

guilt indubitable. Likewise, he could not be convicted unless his guilt were proven beyond a reasonable doubt, although the fair preponderance of the evidence indicated that he was guilty. Again as the purpose of the statute or law was to mete out punishment to the offender, and the rules of conduct to be followed should be definitely known in advance there grew up the salutary rule that penal and criminal statutes should not be retroactive and must be strictly construed so that nothing should be included in the statute except what was clearly and expressly stated.

None of these rules has any application to the law under consideration or the instant proceeding. If the alien suffers a disadvantage as the result of the proceeding, it is incidental and is in no way the object for which the statute was passed.

With respect to objections to the fairness of issuing a second warrant for deportation, after one warrant has been issued and cancelled after a prolonged hearing, there are two definite answers. In the first place, the statute is mandatory and the duty of the Attorney General continues, and his obligation is not satisfied by the issuing of a warrant if after its cancellation it appears that the alien is in fact within the classes of aliens subject to deportation. The mischief to be avoided is the continued residence of a person [30] within the enumerated classes. If it were a matter of crime and punishment the law would be satisfied by the arraignment and acquittal of the accused and no further action could be brought against him. With

respect to deportation, however, the purpose of the statute is not carried out so long as an alien subject to deportation remains domiciled here. Whenever it shall be legally determined that he is among the classes subject to deportation he must go, no matter how strongly the evidence in another case might have indicated the contrary.

The second reason is that since the first hearing Congress has effected a change in the deportation statute which makes this alien deportable on other grounds than those formerly applicable. The original charge in the deportation warrant was that after he entered the United States he became a member of an organization that advises, advocates or teaches the overthrow by force or violence of the Government of the United States, and that after he entered the United States he became affiliated with such an organization. After this warrant was served, the United States Supreme Court concluded in *Kessler vs. Strecker*, 307 U. S. 22,—in which the distinguished counsel now representing the alien appeared successfully—that an alien could not be deported because of past membership in or affiliation with such an organization, but could only be deported on the ground that he was at the time a member of or affiliated with the organization described. [31]

The point to be emphasized there is “That He Was At The Time.”

In consequence, that warrant was amended so that the only issue presented was as to whether the alien was at the time the warrant was issued a

member of or affiliated with such an organization. Following this, however, Congress in the Act of June 28, 1940, amended the statute so as to make past membership in or affiliation with such an organization a ground for deportation.

I have suggested that in doing this, Congress really reinstated its actual, if not its legal intent—the argument of the distinguished counsel here to the contrary notwithstanding.

A ground on which the Government demands the deportation of the alien is that after entering the United States he has been a member of or affiliated with the Communist Party of the United States of America which is an organization which advises, advocates or teaches the overthrow by force and violence of the Government of the United States.

In the instant case I suggest that the fact that the Communist Party of the United States of America advises, advocates and teaches the overthrow by force and violence of the Government of the United States is a matter of common knowledge, but full and indubitable evidence of that fact will be offered in its proper place at this hearing. [32]

There is among well-disposed and intelligent people a disposition to regard the activities of such organizations as the Communist Party of the United States of America as innocuous and negligible. A contrast is made between the relatively small group of persons included in such organizations as compared with 135 million people of the United States generally well disposed to its Constitutional Government and its support. If we are

concerned alone with the matter of the immediate effect of the teachings of the Communist Party, then we may perhaps consider them as negligible in their influence so far as the overthrow of the Government is concerned, but we will show that the Communist party is not concerned, and, likewise, we are not concerned with the present alone. We feel at the moment secure and protected against any current of subversive opinion and any probability of revolutionary action largely because our population as a whole has reasonable satisfaction in conditions as they exist and a confidence in our ability to remedy what is wrong. But within a decade we have seen conditions so disquieting and problems so apparently insoluble as to overshadow our people with the fear of chaos, disorder and revolution. In coming decades like conditions may and almost inevitably will appear again, and we must think of what effect the present current of propaganda may have then.

But, regardless of what may happen at a future time, the attitude and feeling of our alien guests toward the Government and toward this country is of large importance at the present [33] hour. It is obvious that even in tranquil times and ordinary circumstances the presence in the country of aliens who are disaffected is undesirable, but it is a particularly disturbing factor in such times as the present. Clearly, the known fact of the membership of an alien in an organization which teaches or advises the overthrow of this Government encourages disaffection among other aliens even where

he takes no part in Communistic propaganda. The welfare of the country and its stability are best served by bringing as large a part of our alien population as possible within the lines of loyal citizenship. The Communist Party holds the view that the present economic organization of the country is undesirable and should be changed. Such convictions are, of course, a matter of right, and if the teachings of the Communist Party went no further, they would be beyond rightful criticism. But when the party goes further and advocates the substitution of a proletarian dictatorship in place of our Constitutional Government, and the accomplishment of this through force or violence, it becomes, as it has, a festering sore in the body politic. Therefore, the removal from this country of all aliens who are members of or support such an organization is a matter of national self-preservation. Danger of proletarian revolution may or may not be far in the future, but the matter of weakening or destroying the good will of the alien to our Government is a menacing evil in the present hour and Congress [34] has proscribed it.

I have just spoken of the ill consequences of support of such an organization as the Communist Party as though it were inimicable to the interests of the country as actual membership therein. Obviously, the thing that advances the interests and tends to secure the aims of the Communist Party depends on support and cooperation rather than formal enrollment. The question will, therefore,

arise in this case as to whether cooperation and support, such as will be shown by the evidence here, constituted affiliation, which is banned by the statute equally with membership.

It may be contended that, as said by Circuit Judge Chase in the case of Kettern vs. Reimer, 79 F-2 (315-317)—affiliation “is not proved unless the alien is shown to have so conducted himself that he has brought about a status of mutual recognition that he may be relied on to cooperate with the Communist Party on a fairly permanent basis * * *. Affiliation includes an element of dependability upon which the organization can rely, which, though not equivalent to membership duty, does rest upon a course of conduct that could not be abruptly ended without giving at least reasonable cause for the charge or breach of good faith.”

We contend, however, your Honor, that when checked by all the cardinal principles of statutory interpretation there is nothing that indicates or supports the conclusion at which [35] Judge Chase arrived. I do not at this time wish to undertake an extensive discussion of this question, important though it may prove to be. We will show that the conduct of the alien did bring about a status of mutual recognition that he might be relied on to cooperate with the Communist Party on a fairly permanent basis, and that he did cooperate with the Communist Party on a definitely permanent basis.

Also that there was an element of dependability manifest upon which the organization could rely and upon which it did rely.

We respectfully suggest, however, that no such demonstration is necessary and that in interpreting this statute the commonsense and cardinal principle of interpretation should be followed and that must be interpreted in view of the mischief sought to be avoided and in harmony with all of its provisions.

What was the mischief sought to be presented? It was very definitely the support of the Communist Party and like organizations by aliens resident in the United States. It was aid and cooperation which the Congress obviously desired to prevent and which it is clear they intended to embrace within the scope of the statute.

For a demonstration of this we do not need to go outside the statute itself. For example, the statute expressly says that:

"The giving, loaning or promising of money or anything of value to an organization, association, society or group of the character above described, shall constitute affiliation [36] there with."

A single gift, your Honor, and the giver becomes affiliated within the meaning of the statute.

I ask your Honor to place this explicit interpretive declaration of the statute alongside of the definition laid down by Judge Chase and see how in any way the two can be reconciled. Obviously the giving or promising of money or other thing of any value cannot be said to bring "about a status of mutual recognition that he may be relied on to co-operate with the Communist Party on a fairly permanent basis."

It is very clear that when one contributes money to an organization he does not expressly or impliedly agree in any way to cooperate further. Yet the statute declares that such giving, loaning or promising of money or anything of value "shall constitute affiliation," although Judge Chase's definition excludes such a meaning from the intention of the statute. What is there in the giving of money that justifies Congress in declaring that it should constitute affiliation? Obviously it was the view of Congress that one became affiliated with a subversive organization if he gives it support. It evidently conceived of the giving of support as something analogous to giving aid and comfort to the enemy. The sense in which the word was used therefore, intended to include anybody who affiliated himself with such an organization through giving it cooperation and support. You cannot exclude cooperation and support from the meaning of affiliation without ignoring and denying what Congress has expressly said it shall include. In construing a statute we must, of course, consider the entire provision, and what is here contended for is further supported by the statement that "but nothing in this paragraph shall be taken as an exclusive definition of * * * affiliation."

The sense in which we claim the word was used is clearly indicated by the language of the statute itself, while the definition laid down by Judge Chase, is entirely incompatible with it.

It is clear that the views of the court, expressed in the Kettern case stem directly from the earlier

opinion in the Tosky case (unreported), where Judge Hand said that it seemed pretty clear to him that affiliation "involves a mutual recognition of permanent cooperation between the organization and the person affiliated."

As heretofore indicated, this runs directly counter to the interpretative provisions of the Act of June 5, 1920, already quoted. The question, therefore, arises as to how the learned and distinguished Judge could have arrived at such a conclusion with reference to the meaning of the statute in the teeth of this irreconcilable interpretation of Congress.

Now, your Honor, it is impossible for so learned and distinguished a Judge as Judge Hand to find himself in any such judicial dog house. I think that the answer to the question is very clear. [38]

Judge Hand gave his decision in the District Court June 22, 1920; just two weeks after the enactment referred to. Apparently there was no time in the interim for the printing of the statute and the inference is very clear that it was not and could not have been brought to his attention. I think it is equally clear that there is nothing in the report of the case with which Judge Chase gives his opinion, that indicated that this was at any time brought to his attention. I think he must be, therefore, exonerated from any inconsistency in holding, laying down the rule that he did in the absence of the knowledge of the interpretation directly put upon the statute by Congress itself.

I have given some time to that matter, your

Honor, because the question of affiliation seems important and will be important in this case.

I may close by saying that the Government's case is briefly, this: There has been for many decades an economic theory that all wealth is produced by labor, that the use of it belongs to labor, and, therefore, the control of that wealth should be in their hands. That is a crude statement of a very complicated economic philosophy having to do with a multitude of people throughout the world which is not capable of any brief, exact statement. By the end of 1917 the revolutionary leaders of Russia who adhered to that doctrine had overturned the newly constituted constitutional government [39] of that country and had set up what they called a proletarian dictatorship. These leaders planned the extension of this economic and political program throughout the world.

In consequence, they called a Communist International Conference in Russia which became known as the Third International, and by abbreviation is referred to as the Comintern. This International planned the organization of Communist Parties in every part of the world, to be governed by an Executive Committee located in Moscow. Its object was the overthrow through force and violence of all existing governments, and the substitution of proletarian dictatorship. The Comintern has had for its basic principle unity of action through absolute obedience. The evidence will show that all members are required to pledge themselves to such obedience, and the party has never had a democratic organiza-

tion responding to the will of the majority, but it is an army acting under orders, and largely foreign orders.

To accomplish their ultimate purpose in the United States, they adopted a policy of infiltration into the organized labor unions for the purpose of their control. It was a step in the accomplishment of their purpose to have this Government overturned and a proletarian dictatorship substituted here.

The evidence will show that for the purpose of strengthening their control over the trade union movement on the West Coast, the Communist Party sought and obtained the membership, [40] affiliation, cooperation and aid of the alien whose case is now being heard.

I submit, your Honor, that the question of his reasons for yielding to this influence is entirely immaterial. The statute equally bans alien membership in and affiliation with such an organization and the motive in joining and cooperating with it, is entirely beside the point.

It would serve no useful purpose to outline in detail the proofs on which the Government will rest its case. The evidence will speak for itself. We will show that the alien Harry Renton Bridges shortly after he first entered this country in 1920 became a member of the Industrial Workers of the World, an organization which believed in, advised, advocated and taught the unlawful damage, injury and destruction of property and sabotage. We will further show that subsequently he became a mem-

ber of and became affiliated with the Communist Party of the United States of America, an organization which believed in, advised, advocated and taught the overthrow by force or violence of the Government of the United States.

We will further show that he became affiliated with the Marine Workers Industrial Union, a section of the Communist International, an organization which believed in, advised, advocated and taught the overthrow by force or violence of the Government of the United States. [41]

The evidence which will be presented in regard to the alien's membership in and affiliation with the organization just mentioned must be received and considered in the light of the fact that, although enjoying the hospitality of this country for twenty years, he has failed to become a citizen and to take oath of allegiance and to protect and defend the Constitution and laws of the United States against all enemies foreign and domestic. [42]

Mr. Gladstein: If your Honor please, I think it is very close to the noon recess. I was wondering whether your Honor wanted to declare a recess and, if so, I would suggest there may be preliminary matters such as the hours during which we will meet that might be taken up by counsel in the chambers.

Presiding Inspector: What do you say about that?

Mr. Del Guercio: Well, we would prefer to go right on, if the Court please, to speed this along.

Presiding Inspector: Mr. Gladstein, I had

thought that the hours could be—and this, of course, is subject to a revision—I will hear you on this—from ten o'clock in the morning until half past twelve, and from two o'clock in the afternoon until in the neighborhood of five, and that we would have a Saturday session from 10:00 o'clock to half past twelve. I am anxious to expedite this hearing as much as I can without injury to anyone's interests.

Mr. Gladstein: We are likewise, but it must be apparent that that and other matters would be proper subjects for discussion between counsel.

Don't you think, your Honor, in view of the fact that you intend today to go to 12:30—

Presiding Inspector: Yes.

Mr. Gladstein (Continuing): —that this would be an appropriate time to have a morning recess so we can take up these matters? [43]

Presiding Inspector: Yes, we will have ten minutes.

(Whereupon a short recess was taken.)

Mr. Del Guercio: If the Court please, at this time I would like to suggest, and I make it in the form of a motion, that all witnesses, Government and alien witnesses alike, be barred from the court room until at least such a time as their testimony has been heard.

I don't believe counsel has any objection to that.

Mr. Gladstein: We are agreeable to that, your Honor.

Presiding Inspector: It may be so taken as the rule of this hearing.

Mr. Del Guercio: If there are any witnesses now present or expected to testify I believe they should go out from the court room.

Presiding Inspector: Well, do you know whether yours are here?

Mr. Del Guercio: We know that none of ours are here.

Presiding Inspector: None of the Government witnesses are in the court room.

Mr. Gladstein: We will take a look around. We don't know of anybody that we have asked to come that we intend to put on this morning.

Presiding Inspector: Well, probably the people in the court room know whether they expect to give testimony in this case. [44]

Mr. Gladstein: No, on the contrary, your Honor.

Presiding Inspector: Don't they?

Mr. Gladstein: No, because we have no way of knowing what the Government intends to put on. I think Mr. Sauer is in the audience, however, and that there is a possibility—this is simply speculative on our part—that we may require him as a witness; if he is present, why, I am sorry to ask him to leave.

I don't see anyone moving so the possibility is that he is not here.

Mr. Sauer: Did you mention my name?

Mr. Gladstein: Would you leave, Jay? There is a possibility you may be needed to testify later in the case; we don't know.

That is all that I know of at this time, your Honor.

Presiding Inspector: Now, we will go ahead with the presentation of the evidence.

Mr. Del Guercio: Our witness is coming in; he has been called.

Presiding Officer: Yes.

Mr. Del Guercio: Will you take the stand and be sworn?

BENJAMIN GITLOW

called as a witness on behalf of the Government, having been first duly sworn, testified as follows:

Presiding Inspector: Give your full name and address, [45] please.

The Witness: Benjamin Gitlow, 5 West 91st Street, New York City.

The Reporter: Spell your last name, please.

The Witness: G-i-t-l-o-w.

Direct Examination

By Mr. Del Guercio:

Q. What is your present occupation, Mr. Gitlow? A. Lecturer and writer.

Q. And where were you born?

A. Elizabethport, New Jersey.

Q. You are a citizen of the United States?

A. I am.

Q. Have you ever been a member of the Communist Party? A. I have.

Q. For how long a period?

A. From its inception up to the year 1929.

(Testimony of Benjamin Gitlow.)

Q. Is that what is now known as the Communist Party of the United States?

A. That is right.

Q. Of America? A. Yes, sir.

Q. And did you hold any offices in the Communist Party?

A. I did. I was a member of the Central Executive Committee of the Communist Party; I was a member of the Political [46] Committee, a member of its Secretariat, and in 1929 I was General Secretary of the Communist Party.

Q. And were you also a member of the Executive Committee of the Communist Internationale?

A. I was.

Q. And of the Red International of Trade Unions? A. I was.

Q. Were you also a member of the Presidium of both those Internationales? A. I was.

Q. What is a Presidium, Mr. Gitlow?

A. It is a floor committee that handles the affairs of the Communist Internationale.

Q. And while you were a member of the Communist Party did you ever run for public office on the Communist ticket?

A. I did. I was Vice Presidential candidate for the party in 1924, and in 1928, and ran for Mayor of New York City. I forget the year, the exact year.

Q. Were you ever arrested and prosecuted because of your activities in connection with the Communist movement in the United States?

(Testimony of Benjamin Gitlow.)

A. In 1919.

Q. And on what charge?

A. The charge of criminal anarchy.

Q. Criminal anarchy in what state? [47]

A. New York.

Q. In New York State? A. Yes, sir.

Q. You were tried? A. I was tried.

Q. Were you convicted?

A. I was convicted.

Q. Were you sentenced? A. Yes, surely.

Q. What sentence did you get?

A. Five to ten years.

Q. And while serving this sentence did the Communist Party bestow any honors upon you?

A. Well, naturally they did.

Q. What honors?

A. Well, all the honors that they give a leader of the Communist Party who goes to jail for serving the body.

Q. You mentioned that you were a candidate for the Mayor, I believe, on the Communist ticket of New York City? A. Yes, sir.

Q. Was it while you were serving such a sentence that you were nominated to run for Mayor?

A. That is right.

Q. And, I believe you said that you were an honorary member of the Presidium? [48]

A. No; I was a member.

Q. A member of the Presidium?

(Testimony of Benjamin Gitlow.)

A. Yes, sir.

Q. That meets in Moscow, I believe; is that correct? A. Yes, surely.

Q. And while you were in jail serving this sentence were you also elected an Honorary member of the Moscow Soviet? A. That is right.

Q. What is the Moscow Soviet?

A. Well, that is the local government for the City of Moscow.

Q. Now, you have mentioned, or mention has been made of the Communist Internationale. What is the Communist Internationale?

A. It is the international organization of the Communist parties of all countries of the world.

Q. What is its function?

A. Its function is to lead and direct that movement on a world scale.

Q. By "that movement" you mean the Communist movement throughout the world?

A. Throughout the entire world, yes.

Q. And how does it function, Mr. Gitlow?

A. Well, the Communist Internationale functions in the following fashion: In the first place it has a regularly constituted executive committee which is supposed to be the leading committee of the Communist International. It also has offices, like a President and Secretary of the Communist International and various departments. The non-Russian parties, I mean like the American Communist Party, or the German Communist Party, which are affiliated to the Communist In-

(Testimony of Benjamin Gitlow.)

ternational, must carry out all decisions of the Communist International. The only party that has the right to reconsider decisions of the Communist International is the Russian Communist Party which dominates and controls the Communist International.

No party belonging to the Communist International can disobey a decision of the Communist International, and the Russian Communist Party, to its political committee, can make decisions for the Communist International which are binding on all parties belonging to the Communist International.

Q. So that the Communist Party of the United States cannot, if it wanted to, act independently of the decision of the Communist International; is that correct?

A. It cannot, and it never has.

Q. Now, you have mentioned the Russian Party. Will you explain, if you know, of course, just what is the Russian Party?

A. The Russian Communist Party is the party which rules the Soviet Union. It is unlike a political party in our sense of the term because the Russian Communist Party is actually the Government of Russia. It determines all the policies and [50] all the laws for the Soviet Union in advance and, therefore, it is the Government which controls Russia and it is the Russian Government in turn, through the Russian Communist Party, which dominates and controls the Communist International.

(Testimony of Benjamin Gitlow.)

Q. And do you know who is at the head of the Russian Communist Party?

A. Joseph Stalin today is at the head of the Russian Communist Party.

Q. Does the Communist Internationale, or the Communist Party of which the Communist Party of the United States is a part, as you have testified—does it advocate, teach the overthrow of the Government of the United States by force and violence?

A. That is the accepted and fundamental principle of all Communist Parties and of the Communist Internationale, that in order to achieve the aims of the Communist movement the Communists must prepare for the violent overthrow of what they call Capitalist Government.

Q. And by the use of the word "Capitalist Government" they mean all governments that are not—say, all governments but the present Soviet Government?

A. That is true.

Q. Does the Communist Internationale and the Communist Party of the United States publish in print, or cause to be published, and print literature setting forth its aims and [51] objects?

A. Oh; I think they print and circulate a voluminous literature.

Q. Voluminous. By what means, if you know, does the Communist Party hope to accomplish its objectives? I believe you have just testified that they hoped to do so, or will do so, rather, through the use of force and violence; is that correct?

(Testimony of Benjamin Gitlow.)

A. They will prepare so that if conditions warrant the engaging in actual violence or revolution they will be prepared to do so.

Q. Now, is there any question about that at all?

A. There is not.

Q. About the use of force and violence in accomplishing their aims?

A. No question whatsoever as far as that particular subject is concerned. From its very inception the Communist movement was organized and predicated on the proposition that in order to achieve communism it would be necessary to violently overthrow existing capitalistic government.

Q. Do they advocate or teach that it would be necessary to first organize or obtain a majority of the people in any particular country before they launch this revolutionary movement?

A. No; they will determine the ripeness for revolution [52] on conditions prevailing at the particular time, and not on the question of a mandate from the people.

Q. And who is to determine when the time is ripe for the launching of this revolution and the overthrowing of the Government by force and violence?

A. The Communist Party in the particular country after it gets the approval of the Communist Internationale.

Q. And do you know of your own knowledge, because of your membership in the Communist Party and your holding of offices in the Communist

(Testimony of Benjamin Gitlow.)

Internationale, that the Party, the Communist Party and the Communist Internationale teaches the overthrow of the Government of the United States by force and violence? A. Absolutely.

Q. Are you familiar with the origin and development of the Communist movement in the United States? A. I am.

Q. How was the Communist Party first organized in this country?

A. The Communist Party was first organized in this country as the result of a split which took place in the Socialist Party, and this split took place over the question of policies and tactic, and one of the important elements in this question was the question of the advocacy of force and violence. [53]

The Communist Party was organized in Chicago in 1919 and immediately sought affiliation to the Communist Internationale. A call went out for the organization of the Communist Internationale. This call was sent out by Lenin, who was the outstanding leader of the Soviet Union at the time, and signed by others, to meet in Moscow to consider the question of the organization of a world communist movement. They called it the Third Internationale, Communist Internationale. Then, after that preliminary meeting another meeting was held, I believe, in the year 1920, the latter part of 1920, called the Second Congress of the Communist Internationale, at which the fundamental principles of the Communist Internationale were

(Testimony of Benjamin Gitlow.)

decided upon, a constitution drawn up, and the Internationale actually formed, and the American Party affiliated with the Communist Internationale, right from the start, and has been a member of the Communist Internationale up to the present time.

Q. Did you take a part in drawing up the constitution and program of the Communist Party?

A. I did.

Q. And that was about when?

A. The year 1919.

Q. And just what did you do? What part did you have?

A. Well, I was a delegate to the convention. I was a member of the National Committee of the left wing of the Socialist Party, and at the convention in Chicago, together with other [54] delegates we formulated the program and the constitution of the party.

Q. And were the aims and objectives of the Party also set up in this constitution?

A. Yes, surely.

Q. And what were the aims and objectives?

A. The aims and objectives of the Communist Party then set up were the revolutionary aims and objectives as outlined later by the Communist Internationale, that is, working for organizing the forces to overthrow the Government of the United States and to set up in its place a new form of Government to be known as the Dictatorship of the Proletariat, patterned after the form of the government of Soviet Russia.

(Testimony of Benjamin Gitlow.)

Q. And how was that to be accomplished with regards to the use of force and violence?

A. Well, it was understood and stated very definitely in the programs that that could not be accomplished without engaging in a violent revolution which, if successful, would succeed in overthrowing the Government of the United States.

Q. You have mentioned the dictatorship of the Proletariat. Just what do you mean by that expression?

A. Well, the bolsheviks or the communists of Russia brought that term into prominence, and they declared that once a revolution took place the old state or the old Government had to be replaced by a new form of Government which they called [55] the Dictatorship of the Proletariat, not a democratic government, but the opposite, a dictatorship, which should proceed to lay the basis for the transformation of society from a capitalist basis to a socialist basis.

Q. Does the Communist Party of the United States have any other aims than that which you have just stated?

A. All its aims are predicated to that ultimate aim.

Q. Well, while you were active in the Communist Party of the United States did you attend meetings of the Central Executive Committee?

A. Oh, yes, sir.

Q. What is the head of the Communist Party of the United States, and where is it located?

(Testimony of Benjamin Gitlow.)

A. What do you mean by "the head"?

Q. The controlling body, if there is any such—

A. Well, the controlling body of the Communist Party of the United States is in Moscow.

Q. In Moscow? A. Of course.

Q. Do they have a Secretariat or a Committee, or whatever it is, in the United States?

A. Yes, sir.

Q. That carries out the program of the Communist Internationale through the Communist Party of the United States?

A. Yes, sir. Well, the Communist Party has a national, [56] or a Central Executive Committee; then it has a smaller committee known as the Political Committee; then, it has a still smaller committee known as the Secretariat, generally consisting of three members which carry on the affairs of the organization.

Q. Were you ever a member of such committee?

A. I was a member of all those committees.

Q. Did you ever have a membership card in the Communist Party? A. Yes, I believe I did.

Q. I will show you what purports to be three membership cards, the first one in the Workers Party of America, the second one in the Workers (Communist) Party of America, the next Workers Party of America, and the third, what purports to be an envelope on which is signed "Membership Card" and containing the symbol, the hammer and sickle, and the name of Benjamin Gitlow, and ask you if you can identify these documents?

(Testimony of Benjamin Gitlow.)

A. (Examining documents): Yes, these are all mine.

Q. These are your membership cards?

A. Yes, sir.

Q. Now, is there any difference between the Workers Party of America, the Workers (Communist) Party of America and the present Communist Party of the United States of America?

A. The only difference is in the name. [57]

Q. Is in the name?

A. That was the development, in which the Communist Party went through a process and finally adopted the name "Communist Party".

Mr. Del Guercio: I offer these in evidence, if your Honor please.

Presiding Inspector: I will receive them and have them marked.

(The four cards referred to were received in evidence and marked Government's Exhibits 2, 3, 4 and 5.)

Mr. Del Guercio: If your Honor please, for various reasons I would like to substitute for the originals, photostatic copies of these exhibits if counsel has no objection.

Mr. Gladstein: No objection. Could we, during the recess, examine them and see that they are photostatic copies?

Mr. Del Guercio: Yes.

Mr. Gladstein: Otherwise, we have no objection.

Presiding Inspector: That may be done. The

(Testimony of Benjamin Gitlow.)

photostats may be marked with the same numbers that the originals now bear.

Mr. Del Guercio: We will have the originals here for the inspection of counsel.

By Mr. Del Guercio:

Q. I will now show you what purports to be a membership card in the Workers Communist Party of America, American Section of the Communist International, and ask you if you can [58] identify this document.

A. (Examining document) Yes; I can identify that.

Q. What is it?

A. It is a membership card of the Workers Communist Party of America.

Q. Whose card is it?

A. It happens to be the card of my wife.

Q. You know that of your own knowledge?

A. Yes, sir.

Q. Under the heading "Party Membership", appearing on this booklet, appears the following:

"See, 1, Art. 3, Page 27.

"Every person who accepts the program and statutes of the Communist International and of the Workers (Communist) Party, who becomes a member of a basic sub-organization of the Party, who is active in this organization, who subordinates himself to all the decisions of the Comintern and of the Party, and regularly pays his membership dues may be a member of the Party."

Was that the rule at the time you went in?

(Testimony of Benjamin Gitlow.)

A. Yes; that has always been the rule.

Q. Could a person join the Communist Party without accepting and pledging himself to carry out these dictates? A. That is quite impossible.

Mr. Del Guercio: So I won't have to repeat it, may it [59] be understood that I am offering photostatic copies?

Mr. Gladstein: Yes.

Mr. Del Guercio: I will withdraw the originals and offer the photostatic copy.

Presiding Inspector: Have both the original and the photostatic copy marked.

Mr. Del Guercio: I now offer the membership card just identified.

(The card referred to was thereupon received in evidence and marked Government Exhibit No. 6.)

By Mr. Del Guercio:

Q. I believe you testified that you were a member for some period of time of a number of committees which controlled the Communist Party in the United States of America? A. I did.

Q. What were those committees?

A. The Central Executive Committee; the Political Committee, the Secretariat; the Trades Union Committee of the Central Committee, the Needle Trades Committee of the Central Committee, the Management Committee of the Daily Worker—any number of committees.

(Testimony of Benjamin Gitlow.)

Q. You mentioned the Political Committee. What is the Political Committee?

A. The Political Committee is the ruling Committee of the Communist Party of the United States. [60]

Q. And how many members are there on such a committee?

A. That depends. The membership may vary from seven to more members.

Q. They must necessarily be, of course, members of the Communist Party, outstanding members?

A. Only outstanding members of the Communist Party.

Q. And where did they meet at the time you were on the Committee?

A. They generally met at the headquarters of the Communist Party, in whatever city they happened to be in.

Q. And what effect did their decisions have on the Communist Party of America and on the policies of that party?

A. Their decisions were always binding on the Party and its membership.

Q. I show you a document purporting to be the minutes of the Politbureau, dated September 2, 1925, and will ask you if you can identify this?

A. (Examining document) Yes; I can identify it.

Q. What is it?

A. That is the minutes of the Political Com-

(Testimony of Benjamin Gitlow.)

mittee of the Communist Party of the United States.

Mr. Del Guercio: Excuse me, counsel. I didn't show it to you. Do you care to see it?

Mr. Grossman: When you get through.

Mr. Gladstein: Are you going to ask questions on it? [61]

Mr. Del Guercio: Yes.

Mr. Gladstein: May we see it?

(The document was passed to counsel for examination.)

By Mr. Del Guercio:

Q. How did this document come into your possession, Mr. Gitlow?

A. As a member of the Political Committee of the Party I received copies of its minutes.

Q. And that was the usual course of business?

A. Yes.

Q. Who are Ruthenberg, Lovestone, Bedacht, Foster, Cannon, Dunne, and Comrades Loeb, Engdahl, N. H. Tallentire and M. Hansen, shown as being present at this particular meeting?

A. Well, some of them were members of the Political Committee.

Loeb was the Manager of the Daily Worker.

Engdahl was the Editor of the Daily Worker.

Tallentire was an organizer at that time, I believe of the Minneapolis district, but I wouldn't be quite sure.

Hansen was a member of the Party.

(Testimony of Benjamin Gitlow.)

Mr. Del Guercio: I believe that that has been sufficiently identified, and I offer this document in evidence as Government's Exhibit next in order.

By Mr. Del Guercio:

Q. Were the members of the Communist Party mentioned at the [62] time?

A. All of them; yes.

Mr. Del Guercio: I offer this Government's Exhibit next in order.

Presiding Inspector: If there is no objection it will be received. Both the original and the photostatic copy may be marked in evidence.

Mr. Del Guercio: Yes. I believe it is understood that I would offer the photostat.

Mr. Gladstein: Yes.

(The document referred to was received in evidence and marked Government's Exhibit No. 7.)

Presiding Inspector: Were those men whose names were mentioned voting members of the Committee at this time?

Mr. Del Guercio: The minutes do not show it, if the Court please. I might ask the witness that question.

By Mr. Del Guercio:

Q. Were all of those shown present voting members of the Committee?

A. No, not all those you read.

Q. Who were the voting members?

(Testimony of Benjamin Gitlow.)

A. The voting members of that group were Ruthenberg, Lovestone, Bedacht, Foster, Cannon. The candidate present, and who didn't vote, was Dunne. That meant that he acted as [63] an alternate and in case one of the members was absent then the alternate voted.

Loeb was not a member, Engdahl was not a member, Tallentire was not a member—these were not members with voting power.

Q. You say they were not members, and by that you mean they were not members of the Politbureau but were members of the Communist Party, is that right? A. That is right.

Q. On Page 11 of this document appears this under the heading of "Mexjean Party".

* Comrade Green reported on the deplorable situation of the Mexican Party in detail and at length.

"Motion by Comrade Green that the American Party send \$200 to the Mexican Party as soon as possible. That one worker be contributed to the Mexican Party, possibly Comrade Gomez."

It thereafter appears that the motion carried unanimously.

Is that correct?

A. Well; this is correct and deserves some explanation. Green, Comrade Green, represented as the maker of this motion, this Comrade Green's real name was Gusev. Gusev was a member of the Control Commission of the Communist Party of the Soviet Union. He was a Russian and not an American, and was one of their military experts.

(Testimony of Benjamin Gitlow.)

He was sent as a representative to [64] the Communist Party of the United States by the Communist International, and he came into this country through Mexico and as a result he investigated the affairs of the Mexican Party, reported on them and the following motions were made.

Q. Is it the practice of the Communist Party of America to conceal the names and identity of certain of their members?

A. Well, in a case like that of Gusev, who came here under a different name and illegally, as a special representative of the Communist International, his name and whereabouts were kept in the utmost secrecy.

Q. And the reason for that was as you just explained? A. Yes, sir.

Q. Does the Communist Party make that one of its policies to conceal the names of their members when they believe that the occasion requires it?

A. Yes, sir; when they believe the occasion requires it they do so.

Presiding Inspector: We will recess at this point until 2:00 P. M.

(Whereupon, at 12:30 P. M. a recess was taken until 2:00 P. M. of the same day.) [65]

After Recess—2:00 P. M.

Presiding Inspector: You may call your witness and we will proceed.

BENJAMIN GITLOW

resumed the stand and testified further as follows:

Direct Examination (Resumed)

By Mr. Del Guercio:

Q. Mr. Gitlow, I believe you testified this morning that you had been convicted and sentenced for a violation of the Anarchy Act of the State of New York, is that correct?

A. That is correct.

Q. Were you pardoned for that offense?

A. Yes; I was pardoned.

Q. By whom? A. Governor Smith.

Q. How long a sentence did you serve all together? A. I served about three years.

Q. Mr. Gitlow, I will show you what purports to be the minutes of the Politbureau, dated October 12, 1925, and ask you if you can identify that?

A. (Examining document) Yes, I can.

Q. What is that?

A. These are the minutes of the political committee of October 12, 1925.

Q. What was the purpose of that particular meeting? [66]

A. Well, they had a number of matters that were taken up at this meeting. I would have to read the document—the matter of the Needle Trades; then they had the question of the American Negro Labor Congress; the question on the Russian representative to U.S.S.R.; the matter on the Research Bulletin; matters concerning the Italian

(Testimony of Benjamin Gitlow.)

Convention; the matter on a letter written by Poyntz.

Q. Now, you mean all these matters were discussed and a decision arrived at? A. Yes, sir.

Q. And, I believe, you testified before, that the effect of such a decision was binding upon all members of the Communist Party?

A. See, the Communist Party, you must understand, is organized from the top down, and the political committee is the leading committee of the Communist Party. If it makes a decision that is like a military order to the body organization and to its membership, and those decisions must be obeyed; you can't disobey them.

Q. Now, who is the Robert—may I offer that in evidence, if your Honor please?

Presiding Inspector: Yes, that may be received.

Mr. Del Guercio: And marked Exhibit next in order. I will offer the photostatic copy..

(The document referred to was received in evidence and marked Government's Exhibit No. 8.) [67]

By Mr. Del Guercio:

Q. Now, I note that Minor is mentioned in this report? Who is Minor?

A. That is Robert Minor.

Q. And who is he?

A. Well, he is a member of the Communist Party. He was a member of the political committee and, I understand, he is now Acting General Secretary of the Communist Party.

(Testimony of Benjamin Gitlow.)

Q. He has taken Comrade Foster's place?

A. No; Comrade Browder's place.

Q. All right; I beg your pardon.

I note that on page 6 of this document that the following motion appears:

"That in the Painters' Union, the following shall not deny party membership: Hansen and Jones of Seattle, Swabeck and Johnstone of Chicago and Stevens of Minneapolis," and that the motion was carried unanimously. Is that correct?

A. (Examining document) That is correct.

Q. Will you explain the significance of such a motion and why it was necessary to make it, and what its effect is?

A. We have these matters called to our attention in the political committee repeatedly always referring to the activities of Communists in labor organizations. At that particular time in the Painters' Union a resolution was adopted by the Painters' Union outlawing Communists from that organization, and [68] it became necessary to determine a policy for Communist Party members in the Painters' Union, and the Political Committee decided that the known-leaders of the Communist Party, who were members of the Painters' Union, should not deny membership in the Communist Party, but that all other Communists who were members of the Painters' Union should deny such membership.

Q. And that decision, as you said before, is binding upon the particular members involved?

(Testimony of Benjamin Gitlow.)

A. Absolutely.

Mr. Gladstein: May we go off the record a moment, please?

Presiding Inspector: Off the record.

(Discussion off the record.)

Presiding Inspector: We will go on with the hearing.

By Mr. Del Guercio:

Q. I will show you another document here, dated October 27, 1925, purporting to be the minutes of the Politbureau, and ask you if you can identify that.

A. (Examining document) Yes; I can identify it.

Q. What is that document?

A. Those are the minutes of the Political Committee of October 27, 1925.

Q. And that is similar to the other meetings that you have testified to? A. Yes.

Q. Now, I note that in this particular meeting a motion [69] was made by Comrade Cannon, and carried, that those Comrades known as Communist Party members who cannot deny membership, and named on the list of the Union, shall state that they have withdrawn from the Communist Party, or will withdraw from the Communist Party. Is that correct?

A. Just a moment. I will read the reference to it.

Q. I believe there is a marker there on page 11.

(Testimony of Benjamin Gitlow.)

A. Page what?

Q. Page 11.

A. On page 2 reference is made to the Machinists' Union if that is what you refer to.

Q. Yes. I believe that is right.

A. That is in line with the same policy adopted in the other Union you questioned me about, the Painters' Union, just a little while ago.

Q. That is the usual practice of the Communist Party, is it not?

A. Oh, yes; that was the usual practice. It came up repeatedly.

Q. Now, I believe mention is made in that document there of organizing and creating trade union organizations. Do you find a reference to such a matter?

A. There are a number of references to the Party's activities in trade unions.

For example, there was a report of the Industrial Committee [70] on the International Ladies' Garment Workers Union.

Comrade Ruthenberg reported that several questions had arisen in the Industrial Committee meeting. He proposed that the Politbureau pass upon, as follows:

Motion by Ruthenberg that Comrade Gitlow represent the Party at the International Ladies' Garment Workers Union Convention November 29.

Then there is another matter, for example, on the Anthracite situation, referring to the Miners' Union.

(Testimony of Benjamin Gitlow.)

Motion by Ruthenberg that Comrade Tallentire remain in charge for the Central Executive Committee, and that Comrade Reed work in cooperation with him. Reed was a special party organizer among the Anthracite members of the United Mine Workers of America.

Then there was an item in reference to the Furriers' Convention—the Furriers' Convention of November 9th. Comrade Ruthenberg reported that the situation with the Furriers pointed to the possibility of the Left Wing gaining control and it was necessary that the party lay down a basis for the proper line to be followed in such a case. Also it is necessary for the party to decide on a minimum program on the basis of which we can work with the Left Wing and other groups in the Furriers.

Then there was a series of motions and if you want me to read them I will read them. [71]

Q. I don't believe it is necessary. Let me just ask you this question: Do you know what the policy of the Communist Party is towards trade unions generally? A. I certainly do.

Q. Will you state that policy.

A. The policy of the Communist Party towards trade unions is the following:

The Communist Party seeks to gain as much control of the trade unions as it possibly can. In order to influence the trade union members the Communist Party adopts programs and issues slogans, and takes up demands in the trade unions; builds up official organizations, progressive groups,

(Testimony of Benjamin Gitlow.)

Left Wing groups, and manipulates these groups with one purpose in mind: To gain a dominant influence over the trade union membership so they can direct these members in any activities that they want to. And, ultimately, of course, if they control the trade unions, they control the economic lives of the country and if a revolutionary situation should develop they can use the trade unions very effectively to bring about a successful culmination of such revolution.

Q. What you have just stated is the declared policy of the Communist Party of the United States? A. Yes.

Q. Does the Communist Party sometimes foster their own trade union organizations? [72]

A. They pursue a flexible policy. There was a time when Moscow, which is the starting factor in all policies, decided that the Communists—that is in the year 1921—should enter the American Federation of Labor and bore from within.

At that time the Trade Union Educational League was formed with Foster at the head, and the policy was to work within the trade unions to gain control of the trade unions.

Later on, in 1928 and 1929, Moscow ordered a change in that policy and the Communist Party proceeded to build unions of its own, which they called Revolutionary Industrial Unions, and they built a center for such a union as the T.U.E.L., and changed the name of the Trade Union Educa-

(Testimony of Benjamin Gitlow.)

tional League, from a purely opposition center for opposition within the trade union, to a center for unifying trade unions, because they were building at that time unions of their own which they called Industrial Unions.

Q. Now, did the Communist Party, of course, on instructions from the Comintern, form these unions for the purpose of bettering the working conditions of the laboring man?

A. No. These unions were formed at that time for special Russian considerations and had nothing to do with American conditions, or the interests of the workers in the American unions.

Q. Was the interest of the worker considered at all [73] in the formation of such trade unions?

A. No; because had they considered the interests of the workers they would have formed these dual opposition unions.

The reason for the formation of those unions were Russian interests. That was prior, just prior to the launching of the Five-year Plan; and the Five-year Plan was a plan which exacted tremendous sacrifices from the Russian people. It was the intention of the leaders of the Russian Communists to point out to the Russian masses that they had to make these sacrifices because there was a revolutionary situation all over the world, and workers all over were up in arms and rebelling, and so forth.

So, in 1928 and 1929, these revolutionary unions were organized and they had no reason for existence so far as American conditions were concerned.

(Testimony of Benjamin Gitlow.)

Q. And who do they use to form these trade unions, or who do they use to bore from within the unions, like the American Federation of Labor and the C.I.O.?

A. Well, the first step, of course, is the organization of the Communist members within these unions into a Fraction, or some form of organization; and then through the Fraction a broader movement is organized, either a Left Wing group, or a progressive opposition, and a program is drawn up for these progressive groups. In all instances these programs were drawn up most of the time by the Communist Party. [74]

Through these movements, progressive movements and Left Wing movements, they succeeded in gaining the cooperation of many who were not members of the Communist Party.

Q. Now, you have mentioned a "Fraction." What is a Fraction—what do you mean by a "Fraction?"

A. A Fraction in Communist terminology means, let us say, in the Carpenters' Union we have 20 members of the Carpenters' Union, or Communist Party members. These 20 members are organized into a Fraction of the Carpenters' Union to carry out the orders of the Party in the Carpenters' Union. It is a cell organization within the larger body which seeks to attract the non-Communist cells to it so that the Communist Party eventually will control the organization.

(Testimony of Benjamin Gitlow.)

Q. You mentioned the Trade Union Educational League. A. Yes, sir.

Q. What is the Trade Union Educational League?

A. The Trade Union Educational League was formed, I believe, in the latter part of 1921 or the beginning of 1922; it was—the plans for its formation were discussed in Moscow when Foster visited Moscow and, joined the Communist Party in Moscow, and the finances for its organization came from the Soviet Union, and it was formed here for the purpose of building up an opposition movement within the American Federation of Labor against the Gompers leadership in the American Federation of Labor. [75]

Q. With what in view?

A. With the purpose in view of gaining control of the American Federation of Labor for the Communist Party.

Q. And for what purpose?

A. For the eventual purpose, if need be, of using it for revolutionary purposes.

Q. Now, when you use the word "revolutionary" you mean by that violence, force and violence, do you not, and not in its academic sense?

A. Because the Communist Party from its very inception laid down the principle that the revolution against capitalism will necessarily have to be a violent one, in which the use of force and violence will be a necessity.

(Testimony of Benjamin Gitlow.)

Presiding Inspector: May I question to understand about these Fractions?

Mr. Del Guercio: Surely.

Presiding Inspector: Were these Fractions publicly recognized within the unions?

The Witness: No, no; they were secret organizations, within the unions.

By Mr. Del Guercio:

Q. And along that line, the identity of certain members was concealed, if the situations required?

A. The Fraction membership was always concealed.

A. Always concealed. [76]

Now, but Communists operating in the trade unions, if it became dangerous for them to operate in the trade unions and might cause their expulsion from the trade unions, they hid their identity as Communist Party members, or denied that they were Communist Party members.

Q. If there was danger of their being exposed, then, they would deny their membership?

A. Certainly, that is right.

Q. That was the policy and is the policy of the Communist Party in the United States, is it not?

A. It certainly is.

Q. And that is one of the reasons why they sometimes use aliases in joining the Communist Party?

A. Well, no, in joining the Communist Party an alias is not used because the Communist Party knows the right name of every member who joins.

(Testimony of Benjamin Gitlow.)

the party, but in the party membership roll an alias is substituted for the right name, and that was generally applied to persons who held positions which they might lose, which positions were very strategic, and particularly to Civil Service employees.

Q. Now, by persons having strategic positions, do you mean such as labor leaders?

A. Well, it might have been labor leaders, might have been heads of research organizations, it might have been workers [77] in important Government positions, teachers and so forth.

Q. Concerning this Trade Union Educational League you say it was created by the Russian Party or the Communist International?

A. Yes.

Q. And what relation is there between the Trade Union Educational League and the Communist International?

A. No direct relationship between the Trade Union Educational League and the Communist International. Once the Trade Union Educational League was formed it was directed and controlled by the Communist Party of the United States, and its relations, the relations of the Trade Union Educational League to the Communist International came through the Communist Party of the United States, and not independently as such.

Q. And would you say, then, that the aims and objects of the Trade Union Educational League are the same as those of the Communist Party?

(Testimony of Benjamin Gitlow.)

A. Not exactly. The Trade Union Educational League is a front organization of the Communist Party. It may be formed—

Front organizations may be formed for a short period of time, or they may be formed for an extended period of time, depending on the circumstances, and the front organizations are used by the Communist Party for the express purpose of reaching non-Communists who cannot be reached directly through the Com- [78] munist Party, you see.

Q. And would you say that they are formed only for the purpose of furthering the cause of the Communist Party?

A. Their actual purpose is for furthering the cause of the Communist Party, but that is not—that is never given as the public purpose of the organization.

Q. But it is, however, the real purpose of the organization?

A. It is, however, intrinsic, the real purpose of the organization.

Q. And it is only one of the means used to promote a situation so that the revolution may be brought about at the proper time?

A. All this is preparatory work to the time when the Communists believe they can seize power through revolution.

Q. Now, the Red International of Labor Unions; are you familiar with that? A. Yes, sure.

Q. What is that?

(Testimony of Benjamin Gitlow.)

A. The Red International of Labor Unions was formed by the Communist International in Moscow for the purpose of creating a trade union center in Moscow that would be controlled by the Communist International and by the Bolshevik leaders of Russia.

Mr. Del Guercio: May I offer at this time in evidence [79] the document which the witness has just identified?

Presiding Inspector: Certainly; received without objection.

(The document referred to was received in evidence and marked Government's Exhibit No. 9.)

By Mr. Del Guercio:

Q. Mr. Gitlow, I will show you another document, dated December 23, 1925, purporting to be the minutes of Polcom and ask if you can identify it.

A. (Examining document) Yes, I can identify it.

Q. I don't remember whether you have defined "Polcom", or what the Polcom is.

A. Polcom, and Politbureau and Political Committee are all the same. It is a contraction of the name Political Committee, Pol for political and Com for Committee.

Q. What is that document that you have, Mr. Gitlow?

A. Those are the minutes of the Political Committee of December 23, 1925.

(Testimony of Benjamin Gitlow.)

Q. How did you come by it?

A. As a member of the Political Committee I received these minutes.

Q. Does that document there contain anything regarding the collaboration of the Red International-Labor Unions with the Marine Transport Workers of the I.W.W. and other revolutionary organizations? I believe a reference is made on page [80] 5 under the heading "Marine Transport Workers Cable received by Com George."

A. Yes.

Q. What is the significance of the cable received by Comrade Harrison George, read by Comrade Ruthenberg?

A. Well, I will have to read the cable in order to—

Q. Would you read it out loud, please?

A. All right.

"RILU—That is the Red International of Labor Unions—"Executive Bureau Empowers Comrade Harrison George Act Representative RILU Transport Workers Section at United Front Conference Meeting Havana Cuba January Fifteenth Nineteen Twenty Six. Stop Our position Stop Fight War Danger and Imperialism Fostered by Capitalist Government Generally and Today United States Particularly Stop Against Pan American Labor Federation as Tool North American Imperialism Stop Against T U Collaboration with Employers Stop Against Disorganized State Labour Movement Stop Favour Class Struggle Proletarian Organizations Trade Union Unity Nationally Internation-

(Testimony of Benjamin Gitlow.)

ally for International Federation Transport Workers All Branches Transport for Close Collaboration DJLU Organizations with Other Revolutionary Organizations Seamen Particularly MTW 510 IWW Stop Detailed Instructions Materials Following Stop."

This is a cable appointing Harrison George Representative [81] of the RILU to a conference of North and South American Seamen's Organizations to be held in Havana, Cuba, for the purpose of organizing the seamen against what we call Yankee imperialism, and at the same time to try to get the collaboration of as many non-Communist organizations for that purpose.

Q. Non-Communist organizations, such as the I.W.W.?

A. Such as the I.W.W. here, for example, specifically mentioned, but they included all seamen's organizations.

Q. So that the Communist Party does not hesitate to ask for the assistance of other revolutionary organizations for the purpose of fostering their own aims and objectives? A. Of course not.

Q. Is there any relation between the Trade Union Unity League and the Red International of Labor Unions?

A. Yes, it is directly affiliated with the Red International of Labor Unions.

Q. And the Red International of Labor Unions, is, of course, controlled by, created and controlled by the Communist International?

(Testimony of Benjamin Gitlow.)

A. Created and controlled by the Communist International.

Q. It has the same objectives and aims, ultimate objectives and aims?

A. Yes, only it specializes on the trade union field.

Q. I believe that Browder is mentioned in this document. Who is Browder? [82]

A. That is Earl Browder, who was then Editor of the Labor Herald; and later became the General Secretary of the Communist Party of the United States.

Q. He is shown as being present at this particular meeting, is he not?

A. Yes; he was not then a member of the Political Committee.

Q. Now, there is also shown as being present one Bob, B-o-b.

A. Bob was a member of the Young Communist International sent from Moscow as a member with full potentiary powers to the Young Communist League organization in the United States.

Q. Is that his true name?

A. No, that is not his true name.

Q. Do you know his true name?

A. I don't remember his true name.

And you have here also present a Frank Miller whose real name is Virola, V-i-r-o-l-a, and he was sent by the Communist International to be a representative with full power to the Communist Party of the United States.

(Testimony of Benjamin Gitlow.)

Mr. Del Guercio: I offer this document in evidence, if your Honor pleases, as Government's Exhibit next in order.

Presiding Inspector: It may be received and the original and copy marked.

(The document referred to was received in evidence and marked Government's Exhibit No: 10.) [83]

By Mr. Del Guercio:

Q. I have here another document dated December 30, 1925, purporting to be the minutes of the Political Committee, and ask you if you can identify that?

A. Yes, those are minutes of the Political Committee.

Q. I believe you are shown as being present at that particular meeting. A. Yes.

Q. What was the purpose of this particular meeting?

A. Well, there were many purposes of it. One is they considered the situation in the Amalgamated Clothing Workers, and they considered the situation in the Carpenters' Union, considered the United Front in New York on Soviet Russia, considered the Bulgarian United Front, took up the question of representatives to the Executive Committee of the Communist International.

Q. Well, now, on that question, on that point, the Executive Committee of the Communist International, what is that?

(Testimony of Benjamin Gitlow.)

A. That is the Executive Committee of the Communist International.

Q. Well, what is its functions? Who is it composed of? What does it do?

A. Well, it is composed of members of the Communist Parties affiliated to the Communist International, and also a [84] larger number of representatives from the Communist Party of the Soviet Union, and it is a directing Executive of the Communist International.

Q. And do party members of the Communist Party of the United States of America ever attend this Executive Committee?

A. Yes; not only—if they are members of the Executive Committee and happen to be in Moscow they attend all of its meetings, but periodically the Executive Committee holds plenary sessions, when it becomes necessary for every Communist Party to send the members of the Executive Committee and representatives of the plenary sessions and the executive sessions of the International, and at this meeting that question was taken up.

Q. Did you ever attend such a meeting?

A. Oh, yes.

Q. About how many times?

A. I attended the sessions of the Executive in 1927. I attended them again when I was at the Congress of the Provintern in 1928, and I attended them again in 1929.

Q. All these meetings were held where, of the Executive Committee?

(Testimony of Benjamin Gitlow.)

A. All these meetings are held in Moscow.

Q. Moscow, Russia? A. Russia, yes.

Presiding Inspector: Do the non-Russian members have equal vote with the Russians?

The Witness: The non-Russian members have equal votes with [85] the Russians, but they haven't equal power, and I will explain that to you, so you will understand it.

The Communist Parties, the non-Russian Communist Parties cannot instruct their delegates to the Executive. They must come to the Executive Committee meetings uninstructed.

The delegates of the Russian Parties can be instructed by the Russian Party; that is, one point of difference. Next, all decisions of the Executive are binding on all parties except the Russian Party. The Russian Party, in its Political Committee, in its Political Bureau, can reconsider decisions of the Executive of the Communist International, and whatever changes it makes are binding on the International and binding on all other parties. [86]

Q. They change that without consulting the various Communist Parties of the other countries?

A. Whenever that takes place only the Russian Political—the Political Committee of the Russian Party alone meets and makes its decisions.

Q. I note among those present at that particular meeting are Hathaway and Sullivan. Who are Hathaway and Sullivan?

A. Sullivan was a District Organizer of the Party; Hathaway later became the Editor of the

(Testimony of Benjamin Gitlow.)

Daily Worker and today has disappeared entirely. Nobody knows where Hathaway is today or what has happened to him.

Q. What is Hathaway's full name?

A. Clarence Hathaway.

Q. Clarence Hathaway. Now, I notice that also Bedacht was present. Do you know Bedacht?

A. That is Max Bedacht; he was a member of the Political Committee.

Mr. Del Guercio: I offer this document in evidence as Government's Exhibit.

Presiding Inspector: It may be received, the original and copy marked.

(The document referred to was received in evidence and marked Government's Exhibit No. 11.) [87]

By Mr. Del Guercio:

Q. I will show you another document dated January 4, 1926 and ask you if you can identify it.

A. (Examining document) Those are minutes of the Political Committee of January 4, 1926.

Q. And how did you come into its possession, Mr. Gitlow?

A. As a member of the Committee I received these minutes.

Q. Now, I notice on Page 1 there under "CI representatives"—is that it? Does the "CI" stand for the Communist International?

A. That stands for the Communist International.

(Testimony of Benjamin Gitlow.)

Q: That a motion was made by Ruthenberg "That Comrades Bedacht and Cannon be elected as representatives of the C.E.C. to appear before the Comintern on the American question and that they be the American delegates to the EECCI," and that thereafter an amendment was made by Comrade Johnstone that Comrade Browder be sent over as the representative of the opposition to the new appeal on the trade union resolution which is being presented to the CI, further "that Comrade Bitelman be one of the delegates."

That motion was carried, was it not?

A. Well, the Johnstone motions weren't carried.

Q. The Johnstone motions were not carried?

A. No.

Q. The other motion by Ruthenberg was? [88]

A. Yes; was carried.

Q. What is the CEC?

A. Central Executive Committee of the Communist Party of the United States.

Q. Of which you were speaking a moment ago?

A. Yes.

Q. What is the EECCI?

A. There are one too many "E's" in there. That is the Executive Committee of the Communist International.

Q. And you have also testified concerning that?

A. Yes.

Mr. Del Guercio: I offer that document, if your Honor please, as the exhibit next in order.

(Testimony of Benjamin Gitlow.)

Presiding Inspector: It will be received and marked as usual.

(The document referred to was received in evidence and marked Government's Exhibit No. 12.)

By Mr. Del Guercio:

Q. On this exhibit, which has just been introduced, Mr. Gitlow, I note there was present Darcy, followed by the letters "YWL". Do you know who that Darcy is?

A. That is Samuel Darcy, I believe.

Q. Samuel Darcy—who is he?

A. He was a member of the Political Committee of the Young Workers League. That is the organization of young [89] Communists.

Q. Do you know what he is at the present time?

A. No, I don't.

Q. I will show you another document dated January 8, 1926—

Presiding Inspector: Has the last one been marked?

Mr. Del Guercio: Yes.

By Mr. Del Guercio:

Q. (Continuing) —and ask you if you can identify it?

A. (Examining document) Yes. Those are the minutes of the Political Committee of January 8, 1926.

Q. And you came into its possession in the same manner as the others?

(Testimony of Benjamin Gitlow.)

A. In the same manner as I testified to before; yes.

Q. The "Bob" again mentioned as being present is the Bob concerning whom you have heretofore testified? A. The same party.

Q. As being the Russian representative?

A. Yes; to the Young Communists' League Organization.

Q. Mention is again made in this meeting of the TUEL, and that is the Trade Union Educational League of which you have already testified about? A. That is right.

Q. I believe you testified here before that the Communist International controls the activities of the Communists [90] throughout the world.

A. That is right.

Mr. Del Guereio: I offer this document and ask that it take the exhibit number next in order.

Presiding Inspector: It will be received and marked in the same way.

(The document referred to was received in evidence and marked Government Exhibit No. 13.)

By Mr. Del Guereio:

Q. I show you another document—the date is illegible—on the second page of which there are these figures: "4/8/26," and ask you if you can identify it.

A. (Examining document) Those are the minutes of the Political Committee.

(Testimony of Benjamin Gitlow.)

Q. That is of the same committee concerning which you have been testifying?

A. Yes.

Q. And you came into possession of this document in the same manner?

A. In the same manner.

Q. I note that a motion was made and carried to send a comrade to the Philippine Islands under the instructions and direction of the Eastern Department of the Comintern.

A. What page is that on?

Q. On page 1, at the bottom of page 1: [91]

"Motion made by Ruthenberg: That the Org. Dept. shall make a survey in order to"—and then something that is eligible—"a comrade who can be sent to the Philippines under the instructions and direction of the Eastern Department of the Comintern."

That motion was carried unanimously, is that correct?

A. Yes. That refers to a decision—the Comintern is divided into departments that handles the special affairs in different parts of the world. You have the Anglo-American Department, which handles the British and American matters; and you have the German Department, which handled the German matters; and you have the Scandinavian Department, which handled the Scandinavian countries, Sweden, Norway and Denmark; and the Far Eastern Department, which handled China, Japan and the Far Eastern countries and colonies.

(Testimony of Benjamin Gitlow.)

The Far Eastern Department made a request upon the Party, the Communist Party of the United States, at that time, that it send one of its members to the Philippines to work for the Far Eastern Department of the Communist International in the Philippines Islands.

Mr. Del Guereio: I offer that document as Government Exhibit next in order.

Presiding Inspector: It will be received and marked in the usual way. [92]

(The document referred to was received in evidence and marked Government's Exhibit No. 14.)

By Mr. Del Guereio:

Q. Does the Communist Party conduct training schools for its members? A. It does.

Q. And do you know what the purpose of such schools are?

A. To educate the members of the Communist Party in Communist theory, policies and tactics; and furthermore, to prepare the Communist Party membership for leadership for the movement wherever it is required.

Q. All for what purpose?

A. All for the general purpose of preparing the party to take over power in the country.

Q. Through force and violence?

A. Yes, sir.

Q. I show you a document dated April 15, 1926; and ask you if you can identify it.

(Testimony of Benjamin Gitlow.)

A. (Examining document) Those are the minutes of the Political Committee of April 15, 1926.

Q. I note that on page 2 of this document mention is made of the Workers' School of New York. Are you familiar with that school?

A. Yes, I am.

Q. What is it? [93]

A. That is a Communist Party school. The main school of the Communist Party is situated in New York.

Q. And there appears also on that document a motion made by Comrade Lovestone that the publication of literature used in the Workers' School be made through the Party Printing plant, and that in each instance the literature be approved by the Central Executive Committee before publication. Is that the usual practice?

A. That is the usual practice. The Communist Party leaves nothing to chance. Every action, everything that is done, must first be approved before it is done.

Q. So that everything that purports to be the literature of the Communist Party has the approval,—must have the approval of the Communist Party? A. Must have; yes.

Q. Are you familiar with the Daily Worker publication? A. I am.

Q. Do you know how the Daily Worker was organized or created?

A. Yes. It was created in 1924. There was a special decision of the Communist International

(Testimony of Benjamin Gitlow.)

directing that the Communist Party of the United States establish a daily paper and it should proceed to raise a fund of \$100,000, and as part of that fund the Communist International sent to the United States \$35,000. [94]

Q. You say that was formed in about 1924?

A. Yes.

Q. And why was it formed?

A. Well, as a newspaper of the Communist Party to further the aims and purposes of the organization.

Q. Was it formed for any other purpose than furthering the aims and purposes of the Communist Party? A. For no other purpose.

Q. Is it owned and operated by the Communist Party?

A. It is owned and operated by the Communist Party from the beginning up to the present time.

Q. Did you ever bring any money from Moscow for use by the Daily Worker?

A. Yes. I brought money here in 1928.

Q. In 1928? A. Yes.

Q. How much?

A. I brought an initial \$3,000 of a fund of \$35,000, which was donated by the Communist International for our Presidential Campaign in that year.

Q. Did you bring any other moneys?

A. No; personally I never did.

Q. Who gave you that money?

A. I received that money in Berlin,

Q. In Berlin? [95] A. Yes; in Berlin.

(Testimony of Benjamin Gitlow.)

Q. From whom?

A. From the Secret apparatus of the Communist International which was maintained in Berlin for that purpose.

Q. And did you turn it over to the—

A. (Interposing) On my arrival here I turned it over to the Party.

Q. To the Party? A. Yes.

Q. Under what circumstances—who did you turn it over to?

A. I turned it over to Mr. Lovestone at the convention of the Party, which was held at that time in New York City—the nominating convention of that Party.

Q. The Daily Worker, I assume, is a daily paper? A. A daily newspaper.

Q. A daily newspaper? A. Yes.

Q. Where is it published?

A. Originally it was published in Chicago. In 1928 it was moved to New York and it is published there now.

Q. Has it recently changed ownership, do you know?

A. That is a fictitious change in ownership. The policy of the paper hasn't changed, and the editors are all Communist Party editors, and the paper is owned and controlled by the Communist Party.

Q. Would you say that it is the organ of the Communist [96] Party of the United States of America?

(Testimony of Benjamin Gitlow.)

A. Of course it is the organ of the Communist Party.

Q. And it so states at least on some of the publications?

A. Even if it didn't state it, it still would be the organ of the Communist Party of the United States.

Mr. Del Guercio: I offer that document in evidence.

Presiding Inspector: It may be received and marked as usual.

(The document referred to was received in evidence and marked Government's Exhibit No. 15.)

By Mr. Del Guercio:

Q. I show you a document dated June 7, 1926, and ask you to state what it is.

A. (Examining document) Those are the minutes of the Political Committee of June 11, 1926.

Q. There is a stamp on the front of this document "Read and destroy." Who put that on there, Mr. Gitlow?

A. It was put on by the National office of the Communist Party when they mailed them out.

Q. How did you come in possession of this document? A. It was mailed to me.

Q. And you didn't destroy it?

A. No. I kept it.

Q. I believe your name appears on this document as being [97] present?

A. Yes; it so appears.

(Testimony of Benjamin Gitlow.)

Q. And also that of Darcy? A. Yes.

Q. Is that the same Darcy?

A. The same Darcy.

Q. Foster is also mentioned as being present.
What Foster is that? A. William Z. Foster.

Q. Who is he, Mr. Gitlow?

A. He was the Chairman of the Party at the time and I believe he still is Chairman of the Communist Party.

Q. I note on page 2 there was some discussion concerning the Daily Worker—at the bottom of page 2. Do you recall that discussion?

A. Well, we had a number of occasions where we had friction between the Managing Department, the Business Managing Department of the Daily Worker, and the Editorial Department, and this was one of these occasions on which the matter was discussed by the Political Committee.

Q. Does the Political Committee direct the policy of the Daily Worker?

A. The Political Committee selects the editors of the Daily Workers, the Business Staff of the Daily Worker, determines the policy of the Daily Worker and is the chief boss of the [98] Daily Worker.

Mr. Del Guercio: I offer this document in evidence.

Presiding Inspector: It is received.

(The document referred to was received in evidence and marked Government's Exhibit No. 16.)

(Testimony of Benjamin Gitlow.)

By Mr. Del Guercio:

Q. I show you another document dated June 15, 1926, and ask you to state what it is.

A. (Examining document) Those are the minutes of the Political Committee.

Q. You came into possession of this document in the same manner? A. Yes.

Q. You were present at this meeting?

A. It was present; yes.

Q. I note on page 1, under the heading "Motions by Ruthenberg," that this appears:

"That if it is necessary for the Comrade to do so, to retain his citizenship in the United States, he shall answer the questions as follows:

"1. That he is attached to the Constitution of the United States.

"2. That he takes the oath of allegiance to the Constitution of the United States.

"3. On the question of the Soviet Government he shall [99] declare that he has no opinion on the question because he has not sufficient knowledge of the situation.

"4. He shall declare that he favors the workers and farmers controlling the Government in order to create better conditions for themselves. At the present time he shall state that he is in favor of workers and farmers nominating their own candidates.

"5. That if it cannot be proven that he is a member of the Party, he shall deny membership in the Party."

(Testimony of Benjamin Gitlow.)

That motion was made and unanimously carried by the Political Committee, is that correct?

A. That is correct.

Q. And that is binding upon all members of the Communist Party?

A. On all members of the Party.

Presiding Inspector: We will suspend the hearing for five minutes.

(Whereupon a short recess was taken.)

Presiding Inspector: You may proceed.

By Mr. Del Guercio:

Q. Mr. Gitlow, I note that mention is made in this meeting of the Lenin School. Do you know what the Lenin School is? A. Yes, I do.

Q. What is it? [100]

A. The Lenin School was established by the Communist International in Moscow for the purpose of training professional revolutionists who were to act as outstanding leaders for the Communist Parties of all countries, and the Communist Parties of all countries selected students for the Lenin University.

Q. Where is that school located?

A. At Moscow.

Q. Did you ever attend such a school?

A. No, I didn't.

Q. You previously testified, I believe, concerning the Workers' School? A. Yes.

Q. Were you ever an instructor in such a school?

(Testimony of Benjamin Gitlow.)

A. No, I never was an instructor in such a school.

Q. Did you ever teach in such a school?

A. I gave a few lectures in the Workers' School, but I never was an instructor or teacher in the Workers' School.

Q. You say the purpose of this Lenin School is to educate Party members along revolutionary lines?

A. Yes. It is to train Party members in revolutionary policies, tactics, theory and principle, to make some outstanding professional revolutionists and outstanding leaders of their respective Communist Parties.

Q. Did the American Party of the Communist International ever send any students to this Lenin School? [10f]

A. We have sent plenty of students to that school.

Q. Who pays their expenses?

A. The fare is paid by the Communist International. The School has living quarters, and the upkeep, and everything else, is paid by the Communist International. If they have dependents in the country from which they come a certain amount is stipulated for the upkeep of these dependents. All expenses, everything is paid by the Communist International.

Q. And upon completion of this course I assume that they return to the United States?

(Testimony of Benjamin Gitlow.)

A. Not necessarily. Sometimes they are given what I would call post graduate instruction and they are sent on missions to all parts of the world before they return to their mother Party.

Q. Some of them do come back to the United States?

A. Oh, yes. For example, Clarence Hathaway came back to the United States. He graduated from the Lenin School and became a member of the Communist Party of the United States, and also Editor of the Daily Worker.

Q. Do you know of any others who attended this Lenin School?

A. Yes; Charles Krumbein, Margaret Undjus and Joseph Zaek.

Q. Mention is also made in this document of the ILD. What does "ILD" stand for, if you know?

[102]

A. International Labor Defense.

Q. And what kind of an organization is that?

A. The International Labor Defense is an organization of the Red Aid International, and organized for the purpose of defense, defending Communists who get into trouble with the authorities, providing lawyers, bail, and so forth.

Q. You say it was created by the International Red Aid?

A. Yes. When Cannon was in Moscow, I believe in 1926, he brought back to the American Party instructions from the Red Aid International that we shall proceed to build a defense organization that

(Testimony of Benjamin Gitlow.)

shall be affiliated to the Red Aid International, and the Political Committee met at the time and drafted the program and laid down the policies, and even decided on who the leading committees of the International Labor Defense should be.

All matters were decided upon by the Political Committee of the Party.

Q. Do you mean that the International Labor Defense is one of the organizations of the Communist International, created by the Communist International, conceived and created by it?

A. Absolutely.

Q. And who is Mr. Cannon?

A. Mr. Cannon is no longer a member of the Communist Party; but at that time he was a member of our Political Committee and became the first Secretary of the International Labor Defense. [103]

Q. And it is an organization then that was formed to carry out the purpose of the Communist Party or the Communist International?

A. Absolutely.

Q. Is there any question about that?

A. No question whatsoever.

Q. Do you know who the present head of the International Labor Defense is?

A. I believe the Chairman now is Congressman Marcantonio.

Q. Who controls the policy of the ILD, the International Labor Defense?

A. The policy is controlled by the Political Committee of the Communist Party.

(Testimony of Benjamin Gitlow.)

Q. How does it exercise control over the International Labor Defense?

A. It exercises its control by taking up all matters of the International Labor Defense at meetings of the Political Committee, making decisions as to personnel, policy, and so forth, and these decisions are then carried out by the International Labor Defense.

Q. Are all members of the ILD necessarily members of the Communist Party?

A. Not necessarily.

Q. Why is that?

A. The organization is a front organization. Its real [104] purpose is camouflaged in order to attract as many non-Communist members as possible.

Q. But would it be possible for the organization to obtain a sufficient number of non-Communist Party members so they could exercise control over the ILD? A. Never.

Q. Why is that?

A. Because in organizing the ILD special care is taken that it is so formed and so constituted that the Communists always have the dominating control and influence in the organization.

Q. And you stated that the purpose of the ILD is to what—

A. The purpose of the ILD is to serve as a defense organization for Communists to begin with, and for causes which the Communists undertake as their own cause.

Q. You mean the ILD is used as a defense

(Testimony of Benjamin Gitlow.)

agency for every important Communist that is arrested?

A. It is used for every important Communist, and nonimportant Communist that is arrested, but they may take other cases and defend them if they can make political capital out of such defense.

Q. That is the only purpose that they take other cases for? A. That is the only purpose.

Q. Does the Communist International exercise any control over the ILD? [105]

A. The Communist International exercises control over the ILD and over the Communist Party.

Mr. Del Guercio: I offer this document in evidence, if your Honor please, as Government's Exhibit next in order.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 17.)

By Mr. Del Guercio:

Q. I show you another document, dated June 29, 1926, and ask you to state what it is.

A. Those are the minutes of the Political Committee of June 29, 1926.

Q. Were you present at that meeting?

A. No, I was not.

Q. How did you come into possession of this document?

A. As a member of the Political Committee I received it.

(Testimony of Benjamin Gitlow.)

Q. On Page 5 of this document, under the heading "ILD"—what does "ILD" stand for?

A. International Labor Defense.

Q. That is the organization you have been speaking about? A. That is right.

Q. Now, there appears this motion by Comrade Cannon:

"To confirm Chicago as the place and the first week of September as the date of the ILD national conference.

"To officially approve of the federation form of organization in building the language sections of the ILD." [106] Is that correct?

A. That is correct.

Q. And that motion was unanimously carried?

A. That was carried unanimously.

Q. At a meeting of the Political Committee of the Communist Party?

A. At a meeting of the Political Committee of the Communist Party; yes, sir.

Q. Was that binding on the International Labor Defense? A. That was.

Q. And binding also upon every other member of the Communist Party?

A. On every member of the Communist Party.

Q. Do you recognize the signature of C. E. Ruthenberg—does it appear on practically all of these documents? A. Yes.

Q. Is that his signature?

A. (Examining signature) That is his signature.

(Testimony of Benjamin Gitlow.)

Mr. Del Guercio: I offer this document in evidence as Government's Exhibit next in order.

Presiding Inspector: It may be received and marked as usual.

(The document referred to was received in evidence and marked Government Exhibit No. 18.)

By Mr. Del Guercio:

Q. Do you know of any members of the *IDL* who are members of the Communist Party?

A. Who are members of the Communist Party?

Q. As well?

A. Practically every member—not practically—every member of the Communist Party is ipso facto a member of the International Labor Defense.

Q. And how do you know that, Mr. Gitlow?

A. Because we had instructions that every member becomes a member of the International Labor Defense.

Q. Instructions from whom?

A. From the Political Committee of the Party to the membership.

Q. And you were on the Political Committee at the time such instructions were given?

A. Yes, absolutely.

Q. You have mentioned Mr. Marcantonio as being the present President of the *IDL*. Do you know if he is a member of the Communist Party?

A. That I don't know.

Q. You don't know? A. No.

Q. Do you know any officials of the *IDL* who are members of the Communist Party?

(Testimony of Benjamin Gitlow.)

A. I know a year ago one of the officials, the Secretary [108] of the organization was, Anna David.

Q. Anna David?

A. Anna David was a member of the Party.

Q. What position did she hold in the ILD, if you know?

A. She was Secretary of the ILD.

Q. What kind of an office is that, Secretary?

A. That is the most important office of the International Labor Defense.

Q. Does a non-Party member—and when I say "non-Party member," I mean the Communist Party—ever hold a position of Secretary of the ILD? A. Never since its existence.

Q. Would it be possible for a non-Party member to hold the position of Secretary of the ILD?

A. It might be possible, but the practice was never made.

Q. As far as you know, no one has ever been Secretary of the ILD who is not a member of the Communist Party? A. Never.

Q. Do you know of any important case, any important Communist case that was not defended by the ILD?

A. Well, when there—sometimes when important Communist cases develop the Communist Party, for special reasons, organizes a separate defense organization around that case and the ILD cooperates with that special defense organization.

(Testimony of Benjamin Gitlow.)

Q. What do they call that defense organization? [109]

A. That depends on what the case happens to be. For instance, at the time of the Michigan trials of William Z. Foster and C. E. Ruthenberg, the Communist Party organized a special defense organization for those cases with which organization the ILD cooperated.

Q. And that is the usual practice of the Communist Party, is to, whenever in a case of that kind —the first thing is to form a defense committee?

A. If that is advisable they will do so, yes.

Mr. Del Guercio: I offer that document in evidence, if your Honor please, as Government's Exhibit next in order.

Presiding Inspector: It may be received.

The Reporter: It has already been received.

Presiding Inspector: Well, we will receive it only once.

By Mr. Del Guercio:

Q. I will show you another document dated September 28, 1926, and ask you to state if you can identify it.

A. Those are minutes of the Political Committee.

Q. And you gained its possession in the same manner as you testified before?

A. The same manner.

Q. Is there any reference in this document to the International Labor Defense?

A. (No response.)

(Testimony of Benjamin Gitlow.)

Mr. Del Guercio: If you don't mind, I can help the witness by reference to the paragraph, I believe, on page 4. [110] You have no objection?

Mr. Gladstein: None at all.

By Mr. Del Guercio:

Q. On the top of page 4, Mr. Gitlow.

A. (Examining document).

Q. On the motion made by Lovestone, among other things, "That the ILD shall start a defense campaign against the frameup."

A. Yes, I see that.

Q. Is that correct? A. That is correct.

Q. And that motion was unanimously carried?

A. Yes.

Q. Is that correct?

A. Yes, and there was another motion, down below, made by Dunne, "That the defense of the Passaic strikers be the major campaign of the ILD for the present period."

Q. Yes, and that was equally binding upon the ILD?

A. Equally binding on the ILD and on the party membership.

Mr. Del Guercio: I offer this document in evidence as Government's Exhibit next in order.

Presiding Inspector: Received.

(The document referred to was received in evidence and marked Government's Exhibit No. 19.) [111]

Presiding Inspector: Did the ILD have a governing Board?

(Testimony of Benjamin Gitlow.)

The Witness: The ILD had a small Committee.

Presiding Inspector: Appointed how? By the Communist Party or by the members?

The Witness: The actual Committee was appointed first by the Political Committee and then they went through the formality at a convention of the Party to elect an Executive, and the Executive, in turn, through the formality to elect this small ruling body.

By Mr. Del Guercio:

Q. Similar to a Fraction meeting, Mr. Gitlow?

A. No, even a little different than that.

Q. The same process?

A. Because when we—to make that clear for you, the Political Committee decided when the ILD should hold its conference.

Q. Yes.

A. Then the Political Committee appointed a steering committee for the ILD conference, and this steering committee was given the slate of officers, the slate for the Executive Committee and for the officers of the organization, and then at the conference a caucus of all Communist delegates to the conference is called at which the instructions of the Political Committee are presented to be carried at the conference.

Then, after the Executive is elected the Party slate for [112] the small Directing Committee is put through. The Communists never leave anything to chance; everything is decided upon in advance.

Q. In advance. I will show you another docu-

(Testimony of Benjamin Gitlow.)

ment dated October 13, 1926, and ask you to state if you can identify that.

A. The minutes of the Political Committee.

Q. Were you present at this meeting?

A. I was present, yes.

Q. And on page 1 hereof I note a reference again to the Daily Worker. Is that correct?

A. Yes, in reference to the moving of the Daily Worker from Chicago to New York with instructions from the Communist International on this matter.

Q. Did that question also need to be taken up at the Political Committee?

A. Oh, yes, that was taken up at the Political Committee and it was even taken up in Moscow by the Communist International.

Q. The Daily Worker—the staff of the Daily Worker could not have done that without directions from the Political Committee, is that what you mean?

A. If they did it, they would find themselves out of the Party in a very quick and short time; they couldn't do it.

Q. Now, on page 3 of this document reference is made to the Labor Unity magazine. Do you find that reference, Mr. [113] Gitlow?

A. How far down on the page is that? On page 4, did you say?

Q. Now, I may be in error. It may be on page 4. Do you find a reference to it on page 4?

A. I will see. (Examining document). No.

(Testimony of Benjamin Gitlow.)

Q. Well, in any event, are you familiar with the Labor Unity magazine?

A. I am familiar with it.

Q. What is it?

A. It is the magazine of the Trade Union Educational League.

Q. A Communist controlled magazine?

A. Certainly.

Q. Who publishes it?

A. It is supposed to be published by the Trade Union Educational League, but the Trade Union Educational League never had sufficient funds to publish anything. It got whatever funds it got either from Moscow or through the Communist Party.

Q. And what is it used for?

A. It is used to propagandize the ideas of the Trade Union Educational League.

Q. With what end in view?

A. The end in view to carry out successfully the program of building up a strong block within the unions dominated by the [114] Communist Party.

Q. And for what purpose?

A. That eventually for the objectives of the Communist Party.

Q. Which is—

A. Which is the overthrow of the Government and the establishment of a dictatorship of the proletarians.

(Testimony of Benjamin Gitlow.)

Q. The overthrow, would you say, by force and violence? A. By force and violence, yes.

Mr. Del Guercio: I offer this document in evidence.

Presiding Inspector: Received.

(The document referred to was received in evidence and marked Government's Exhibit No. 20.)

By Mr. Del Guercio:

Q. I will show you yet another document, Mr. Gitlow, dated October 29, 1926, and ask you to state if you can identify it.

A. That is a meeting of—the Political Committee minutes of a meeting of the Political Committee.

Q. And were you present at that meeting?

A. No, I was not present.

Q. How did you come in possession of this document?

A. As a member of the Political Committee I received it.

Q. I direct your attention to page 3 of this document and particularly to that portion of it under the heading [115] "Anti-militarist work." What is meant by the expression, "anti-militarist work?"

A. By that expression is meant work to undermine the military activities of the Government.

Q. By whom?

A. By the Communist Party.

(Testimony of Benjamin Gitlow.)

Q. Is that one of their policies?

A. One of their policies necessarily. If they are to accomplish a revolutionary overthrow of the Government they must disorganize the military forces of the Government they seek to overthrow.

Q. How do they go about doing it, if you know?

A. They go about doing it by organizing a special department and carrying on special work at its direction, and they even go to the extent of developing demands for those who are serving in the military forces. They raise certain issues and certain demands for them in order to get their good will and in that way to gain some contact, and later, influence over them.

Q. Now, anti-militarist, that does not mean that the Communist Party is an anti-militarist, does it?

A. The Communist Party is far from anti-militarist. The Russians have the largest army in the world.

Q. They are anti-militarist, then, in the so-called capitalistic countries?

A. Their anti-militarism consists in weakening the [116] military might of their opponents and strengthening their own military arm.

Q. For the purpose of what?

A. For the purpose of achieving power for themselves.

Mr. Del Guercio: I offer this document in evidence, if your Honor please, as Government's Exhibit next in order.

(Testimony of Benjamin Gitlow.)

Presiding Inspector: It will be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 21.)

By Mr. Del Guercio:

Q. I show you a document dated November 19, 1926, and ask you if you can identify that.

A. Yes, minutes of the Political Committee.

Q. Were you present at this meeting?

A. I was present at this meeting.

Q. I note on page 2 under the heading "Daily Worker"—have you found that reference?

A. (Examining document) Yes, I have that reference.

Q. A motion was made and carried for organization of the campaign in New York for the Daily Worker. Is that correct?

A. That is correct.

Q. And somewhere in this document, Mr. Gitlow, mention is made of the Inprecorr, I-n-p-r-e-c-o-r-r? What is the Inprecorr? [117]

A. The Inprecorr, International Press Correspondents; that is the news release of the Communist International.

Q. They even have a news release?

A. Yes.

Mr. Del Guercio: I will offer this document in evidence.

Presiding Inspector: It will be received.

(The document referred to was received in

(Testimony of Benjamin Gitlow.)

evidence and marked Government's Exhibit No. 22.)

Mr. Del Guercio: I want to withdraw—with the Court's indulgence—I said that the Inprecorr was mentioned in that last document; it is not. It is mentioned in the document that I am about to offer.

Q. I will show you a document dated February 24, 1927, apparently, and ask you to state if you can identify it.

A. (Examining document) Minutes of the Political Committee.

Q. And on page 5 of this document appears the reference to the Inprecorr concerning which you have just testified; is that correct?

A. That is correct; yes.

Q. That is the Inprecorr Telegraph Agency?

A. Yes, sir.

Q. And where are its headquarters or main office?

A. Where? At this time in New York.

Q. In New York. [118]

Now, I note that a letter from the Comintern was read dealing with the establishment of the Inprecorr Telegraph Agency "—necessity of appointing someone here to handle this end of the work," and that thereafter a motion was made by Lovestone, which was carried, "that we elect Comrade Joe Freeman, and until Comrade Freeman's arrival from Moscow, Comrade Verne Smith should take care of that."

(Testimony of Benjamin Gitlow.)

Q. Is that correct? A. That is correct.

Q. Now, I notice that sometimes in these documents—well, in all, practically everywhere in these documents, mention is made of "Comrade".

Is that the usual salutation of the Communist Party?

A. That is the usual salutation of the Communist Party, but it is not confined only to the Communist Party.

Q. Not necessarily, but is it always used by the Communist Party?

A. Yes; if they want to insult you they call you Mr., not comrade.

Q. They call you what?

A. Mr., and not comrade.

Q. Mr., and not comrade? A. Yes, sir.

Q. But they never insultingly refer to anyone as comrade, do they? [119] A. No.

Q. They never jestingly refer to anyone as comrade, do they?

A. Well, they might; they know how to use sarcasm, too.

Q. What?

A. I say a Communist knows how to use sarcasm.

Q. In that taught in Lenin's school?

A. Oh, they teach many things.

Mr. Del Guercio: I offer this document in evidence as Government's Exhibit next in order:

Presiding Inspector: It will be received.

(Testimony of Benjamin Gitlow.)

(The document referred to was received in evidence and marked Government's Exhibit No. 23.)

By Mr. Del Guercio:

Q. I will show you another document dated April 13, 1927, I believe, and ask you if you can identify it.

A. (Examining document) Those are the minutes of the Political Committee.

Q. Were you present at this meeting?

A. I was present, yes.

Q. I direct your attention to page 3 of this document under the heading "Daily Worker" and note that a motion was made and carried "making recommendations as to the personnel of the sub-committees——" of the Daily Worker management "as follows: [120]

Management Committee: Brodsky, Trachtenberg, Stachel, Miller, Dunne, Engdahl, Boyce and Saltzman." Is that correct? A. That is correct.

Q. Is that the duty of the Political Committee to also appoint—make recommendations for such committees to the Daily Worker, or sub-committees?

A. If the recommendations happen to be appointments, that is the duty of the Political Committee. I told you it was the chief boss of the Daily Worker.

Q. Who is the Brodsky mentioned?

A. Joseph R. Brodsky, the Attorney.

Q. He is what? A. An attorney.

Q. Is he a member of the Communist Party?

(Testimony of Benjamin Gitlow.)

A. He is a member of the Communist Party.

Q. You know that of your own knowledge?

A. I know that of my own knowledge.

Q. Is he also a member of the ILD?

A. Was a member of the ILD, too, in my time.

Q. Where is he located at the present time?

A. New York.

Q. Where?

A. I don't know the particular address.

Q. Whom is he associated with, do you know?

A. Well, he was associated, at my time, with Hale; [121] Nellis and Short.

Q. And at the present time?

A. I think Shor—King and Brodsky have an office together; I am not sure.

Q. King? A. Yes, sir.

Q. What King do you mean?

A. The attorney in this case for Bridges.

Q. Miss Carol King? A. Yes, sir.

Q. Mrs; I beg your pardon.

Are reports regularly submitted to the Communist International, Mr. Gitlow?

A. Reports are regularly submitted to the Communist International in detail on the activities of the Party. Our minutes, our reports, copies of our minutes and our reports are sent to Moscow. In addition, there are special reports drawn up for the Communist International.

Q. Who makes these reports out?

A. The General Secretary of the Party, and

(Testimony of Benjamin Gitlow.)
other members of the Party are designated to make those reports. They go over regularly.

Mr. Del Guercio: I will offer this document in evidence.

Presiding Inspector: It may be received.

Mr. Del Guercio: As Government's Exhibit next in order. [122]

(The document referred to was received in evidence and marked as Government's Exhibit No. 24.)

By Mr. Del Guercio:

Q. I will show you a document dated April 21, 1927, and ask you if you can identify that.

A. (Examining document) Minutes of the Political Committee. [123]

Q. Were you present at this meeting?

A. I was not present.

Q. And how did it come into your possession?

A. As a member of the Political Committee I received it.

Q. I direct your attention to page 10 under the heading "CI Statements", and to the statement that "Comrade Bedacht stated that at the previous meeting of the Polcom the question was up as to submission of statements for transmission to the CI", and that thereafter a motion was made by Bedacht to the effect "That the statements to the CI be submitted for transmission up to tomorrow night and if not the Political Committee inform the CI that evidently there is unwillingness to comply with

(Testimony of Benjamin Gitlow.)

the request of the CI, and we request the CI to act on the question without further delay."

What significance does that have, Mr. Gitlow?

A. Well, that refers to an internal factional situation within the party at the time, in which the CI requested that both sides send statements to Moscow on their position, and evidently some of the members had not yet sent their statements and a time limit was set.

Q. I direct your attention to the bottom of page 5 of this document, apparently some motions by Lovestone as follows: "After report on outstanding accounts of the plant:

"1. That the IWA be instructed immediately to take steps [124] to liquidate its full debt which amounts to \$180.

"2. That the ILD be instructed to secure \$350 for the DW", and that that motion was carried. Is that correct? A. That is correct.

Q. Does the Political Committee instruct the ILD?

A. Always. In this case it was instructed to take \$350 out of its own funds and turn it over to the Daily Worker.

Q. That is the International Labor Defense?

A. That is right.

Q. And what is the DW?

A. Daily Worker.

Mr. Del Guercio: Daily Worker.

I offer this document in evidence, if your Honor please.

(Testimony of Benjamin Gitlow.)

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 25.)

By Mr. Del Guercio:

Q. Now, Mr. Gitlow, are conventions of the Communist Party ever held?

A. They are supposed to be held periodically.

Q. Periodically? A. Yes, sir.

Q. And upon whose direction are they held?

A. They are always held on the direction of the Communist International. [125]

Q. Could they hold a convention in the United States without the consent and approval of the Communist International?

A. They must first get the consent and approval of the Communist International.

Q. I will show you a document dated April 22, 1927, and ask you if you can identify that?

A. Those are minutes of the Political Committee.

Q. Were you present at this meeting?

A. I was not present.

Q. And how did this come into your possession?

A. As a member of the Political Committee I received this.

Q. Now, I note on the first page another reference to the International Labor Defense, second paragraph; is that correct?

A. (Examining document) That is correct.

Q. And what is that reference about?

(Testimony of Benjamin Gitlow.)

A. That is in reference to the Sacco-Vanzetti Committee and the policies that the ILD pursued in its relations with the Boston Committee for the defense of Sacco-Vanzetti, and it was stated that the policy pursued by the ILD was correct and in line with the policy previously laid down by the Political Committee.

Q. But would you say that the Communist Party directed the Policy of the ILD in connection with the Sacco-Vanzetti case? [126]

A. Every step of the policy.

Q. Through its attorneys, of course?

A. No; through the ILD officers and committee, who, in turn, saw to it that the attorneys carried it out, but in this case it was not a question of the attorneys because the boss of the committee hired the attorneys. The ILD only carried on an agitational campaign in defense of Sacco-Vanzetti and raised funds. The actual defense was done by the Boston Committee.

Q. I direct your attention to page 4 of this document under the heading "CI Statements" and ask you if there is any reference there to holding a convention of the Communist Party in the United States?

A. (Examining document) Yes, "Motion by Bedacht to elect a sub-committee of two with full power to act, consisting of Comrades Lovestone and Bedacht to draw up and transmit immediately a statement of the Polcom to the Comintern giving reasons for the necessity of an early convention

(Testimony of Benjamin Gitlow.)

of the Workers Communist Party. The statement must be drawn up along the following lines:—"In other words, the Party was preparing to ask permission from the Communist International to hold a convention.

Q. And how are instructions from the Communist International transmitted to the Communist Party of the United States, if you know? [127]

A. In many ways. They are transmitted by letter, by cable, by sending special representatives here.

Q. By cable; do they do that in code, if you know?

A. Sometimes in code and sometimes not in code; it depends on the nature of the cable.

Q. Would they ever send an instruction, an important instruction not in code?

A. Sometimes they send important instructions not in code, but generally confidential matters and important matters came over in code.

Mr. Del Guercio: I offer this document in evidence, if your Honor please.

Presiding Inspector: It may be received and marked, Government's Exhibit.

(The document referred to was received in evidence and marked Government's Exhibit No. 26.) [128]

By Mr. Del Guercio:

Q. I will show you a document dated April

(Testimony of Benjamin Gitlow.)

25, 1927, and ask you if you can identify this document?

A. (Examining document) The minutes of the Political Committee of that date.

Q. Were you present at that meeting?

A. No, I was not present.

Q. How did the document come into your possession?

A. I received it as a member of the Committee.

Q. I note there is quoted a telegram from ECCI Kuusinen. Do you find that?

A. I don't see it. I have a cable here quoted—

Q. (Interposing) On page 2?

A. Page 2? I was looking on page 1.

Q. At the bottom of page 2. A. Yes.

Q. Do you find that reference? A. Yes.

Q. What does "ECCI" stand for?

A. Executive Committee of the Communist International.

Q. Who is Kuusinen?

A. Kuusinen was the Secretary—

Q. (Interposing) Secretary of the ECCI?

A. Yes.

Q. And that is a cable then received by the Communist [129] Party here in the United States from Kuusinen in Moscow? A. That is right.

Q. Mention is made in this cable of "Ben". Do you know to whom that refers?

A. That refers to myself.

Q. And following the reading of that telegram I note that a motion was made by Wolfe, and

(Testimony of Benjamin Gitlow.)

carried, that, among other things, that Comrades Foster, Lovestone and yourself, then Ben Gitlow, make preparations to leave at once in order to attend the executive session. Is that correct?

A. That is correct.

Q. Did you attend the executive session?

A. I did.

Q. Where was it held? A. In Moscow.

Q. Who were present?

A. Present—all the leaders of the Communist Party of all countries, plus the representatives of the Russian Communist Party.

Mr. Del Guercio: I offer this document in evidence, your Honor.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government Exhibit No. 27.) [130]

By Mr. Del Guercio:

Q. I will show you a document dated October 7, 1927, and ask you if you can identify it.

A. (Examining document) Those are minutes of the Political Committee.

Q. Were you present at this meeting?

A. I was present.

Q. I direct your attention to page 4 of this document, particularly the heading "Editorship of Daily Worker." Do you find that reference?

A. I do.

Q. I note that a motion was made by Lovestone

(Testimony of Benjamin Gitlow.)
that Comrade Minor be made the Editor of the Daily Worker. That motion was carried, is that correct? A. That is correct.

Q. And is that Comrade Minor the Robert Minor—

A. (Interposing) Who is now acting General Secretary of the Communist Party.

Mr. Del Guercio: I offer this document in evidence, if your Honor please.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 28.)

By Mr. Del Guercio:

Q. I show you a document dated October 12, 1927, and ask [131] you if you can identify it?

A. (Examining document) Those are the minutes of the Political Committee.

Q. Were you present at this meeting?

A. I was present; yes.

Q. I call your attention to page 4 of this document, and particularly to those matters appearing under the heading "TUEL & ILD Conferences." To what organizations do they refer?

A. Trade Union Educational League and the International Labor Defense.

Q. And I note that a report by Comrade Foster on the TUEL Conference was had, is that correct?

A. That is correct.

(Testimony of Benjamin Gitlow.)

Q. And that Comrade Cannon reported on the ILD Conference? A. That is correct.

Q. And a conference apparently to be held November 11, the 40th Anniversary of the Haymarket martyrs. Who are the Haymarket martyrs referred to?

A. Those were the labor leaders who raised the agitation for the eight hour day back in 1880 something, and tried—a bomb exploded and they were tried and convicted.

Presiding Inspector: That was a Chicago affair?

The Witness: A Chicago affair. [132]

By Mr. Del Guercio:

Q. Reading further on, "It is to be linked up with the Sacco-Vanzetti case. Comrade Cannon requested more publicity in the Freibetit."

Is that correct? A. Yes.

Q. What is the Freibetit?

A. That is a Jewish Daily Newspaper of the Communist Party.

Presiding Inspector: Is that published in Yiddish?

A. It is published in Yiddish in the City of New York.

By Mr. Del Guercio:

Q. I want to call your attention to page 2 of this document, Mr. Gitlow, with reference to a motion made by Lovestone as follows:

"1. The Literature department shall be separated from the Daily Worker and the Party.

(Testimony of Benjamin Gitlow.)

"2. A special corporation known as the Workers Library, publishers shall be organized to take care of the publications. It shall have separate accounts, pay its own expenses and be the Literature, Publishing and Distributing Department of the Party.

"3. 50 per cent of its net proceeds shall go to the Daily Worker, 25 per cent to the National Office, and 25 per cent for further publications. [133]

"4. The Workers Library Publishers shall also publish the Communist whose name and form shall be changed to those of the Workers Monthly:

"5. The Secretariat shall appoint the head of the Literature Department.

"6. Literature sold through the Daily Worker shall serve as a source of revenue for the Daily Worker, the exact proportion to be arranged through agreement between the Daily Worker manager and head of the Literature Department.

"7. The Literature Publishing Committee or Directing Committee of the Workers Library, Publishers, shall be: Head of the Literature Department; head of the Agitprop Department; Daily Worker manager; Comrade Trachtenberg."

That motion was unanimously carried, is that correct? A. That is correct.

Q. And that was the formation of the Workers Library, publishers, Mr. Gitlow?

A. That is right.

Q. And that is a printing house?

A. No. That is the Literature Department of

(Testimony of Benjamin Gitlow.)

the Communist Party. The booklets and pamphlets may be published in any number of printing establishments, but they are printed for Workers' Library, Publishers, which sell and distribute them.

Q. And any document that bears the name "Workers Library, [184] Publishers," is an official publication of the Communist Party?

A. That is right.

Q. And the Workers Library, Publishers, was created, controlled, and is controlled by the Communist Party? A. Yes.

Mr. Del Guercio: I offer this document in evidence; if your Honor please.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government Exhibit No. 29.)

By Mr. Del Guercio:

Q. I believe you explained the Secretariat.

A. Yes. That is the small confidential committee of three.

Q. Composed of high Communist Party functionaries?

A. Generally the Secretary of the Party, the Chairman of the Party and one other.

Q. I will show you a document dated October 20, 1927, and ask you to identify it.

A. (Examining document) Those are the minutes of the Political Committee.

Q. Were you present at this meeting?

(Testimony of Benjamin Gitlow.)

A. I was present; yes.

Q. I note that Comrade Lovestone reported at this meeting that a communication had been received from the CI—that is [135] the Communist International? A. Yes.

Q. —relative to Party Schools, and especially with reference to a Central Party School. Also a letter from the Agitprop Dept. requesting that the question of a National School be taken up at the next Polcom meeting.

Is that correct?

A. The department of the Party that has to do with agitation and propaganda.

Q. What kind of agitation.

A. Whatever agitation and propaganda the Party desides upon—the Communist agitation and propaganda.

Q. And they have a special department for that purpose?

A. A special department; and this department also takes care of educational activities of the Party and supervises all the literature that is printed by the Party.

Q. I also direct your attention here to page 1, under the heading "C.I Communications":

Comrade Lovestone reported that a letter had been received informing us that the Fourth Congress of the Red International of Labor Unions is to be held in March, 1928."

A motion was thereupon made by Lovestone to

(Testimony of Benjamin Gitlow.)

the effect that the notice be-referred to the Trade Union Department for recommendations and action, and that was carried unanimously. Is that correct?

[136]

A. That is correct.

Q. The Red International of Labor Unions, that is the parent organization of the TUEL, is it?

A. The Trade Union Educational League is affiliated to the Red International of Labor Unions. That is the International Trade Union organization of the Communist International.

Q. Affiliated with and controlled by the Communist International?

A. It is a baby of the Communist International, its own organization.

Mr. Del Guereio: I offer this document in evidence as Government's Exhibit next in order.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 30.)

Presiding Inspector: Off the record.

(Discussion off the record.)

Presiding Inspector: You may proceed.

By Mr. Del Guercio:

Q. I show you another document dated October 27, 1927, apparently, and ask you if you can identify it.

A. (Examining document) Those are the minutes of the Political Committee.

(Testimony of Benjamin Gitlow.)

Q. Were you present at that meeting?

A. Just a moment—no, I was not present. [137]

Q. How did this document come into your possession?

A. I received it as a member of the Committee.

Q. I direct your attention to the bottom of page 2 of this document. There appears a motion by Stachel as follows:

"That the ILD send someone into Colorado, who also can be correspondent for the Daily Worker."

The motion was carried unanimously.

Was that binding upon the ILD?

A. That was binding on the ILD; sure.

Q. And just above that reference, Mr. Gitlow, appears a motion by Dunne as follows:

"That we arrange for a conference with the IWW in some city near the seat of the present struggle in order to work out a common program of organization in the territory."

Is that correct?

A. That is correct.

Q. To what did that struggle refer, Mr. Gitlow, if you know?

A. I believe that struggle referred to the strike of the IWW in the coal mines of Colorado at that time.

Q. And this was a direction that a conference be had with the IWW for that purpose, for that particular strike? A. Yes.

Mr. Del Guercio: I offer the document in evidence.

(Testimony of Benjamin Gitlow.)

Presiding Inspector. It may be received. [138]

(The document referred to was received in evidence and marked Government's Exhibit No. 31.)

Q. I show you another document dated November 2, 1927, and ask you if you can identify it.

A. (Examining document) Those are the minutes of the Political Committee.

Q. Were you present at that meeting?

A. I was.

Q. I refer you to page 6 of that document, particularly to the matters appearing under the heading "TUEL Conference." That is the Trade Unity League—the Trade Union Educational League?

A. Yes; that is the Trade Unity League—Trade Union Educational League.

Q. And what was said in reference to that matter at that meeting?

A. You meant the motion in reference to the Conference?

Q. Yes, and with reference to the TUEL proposed constitution.

A. It says:

"Comrade Foster reported on the proposed constitution for the TUEL to be presented to the Conference, with the following section added:

"The TUEL in order to establish working relations with [139] the unorganized masses, shall build up and establish connections with workers' clubs, shop committees and other groups in unorganized plants and cities. Into all groups and leading committees

(Testimony of Benjamin Gitlow.)

of the TUEL—shall be included representative elements from the unorganized plants in the respective industries and localities."

Q. And, thereafter a motion was made by Lovestone on procedure, is that correct?

A. Yes. "That we meet tomorrow at 10:00 A. M. on the following points of the order of business: TUEL constitution, Mining Reports and reports by Comrade Foster on the Auto, Rubber and Chicago Traction."

Q. And that motion was carried?

A. Yes, sir.

Q. Does this mean that the Political Committee formulated the constitution for the TUEL?

A. Yes, sir.

Presiding Inspector: I think we will stop here.

At a conference of counsel this morning, I will state to the public present, the hours for the session were somewhat changed. We will endeavor to sit in the morning from 10:00 to 12:30, and from 2:00 to 4:00 in the afternoon.

There will be no session this week on Saturday.

There will be no session next week.

Mr. Del Guercio: May I offer this last document in [140] evidence before adjourning?

Presiding Inspector: Certainly. I thought you had done it. It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 32.)

Presiding Inspector: We will recess until tomorrow morning at 10:00.

(Whereupon, at 4:30 P. M., an adjournment was taken to April 1, 1941, at 10:00 A. M.) [141]

Court Room 276,
Federal Building,
San Francisco, California,
April 1, 1941.

Met, pursuant to adjournment, at 10:00 A.M. [142]

PROCEEDINGS

Presiding Inspector: Mrs. King, before we proceed, I want to make an explanatory statement.

In relation to your offer of the findings and decision of Dean Landis in respect to membership in the Communist Party, I rejected the offer as going to the whole case. Of course, then your motion was to dismiss and quash the warrant.

I have ruled on that, denying your motion. But I leave open for consideration, when you have the case, as to whether I will receive it in proof of some incidental fact. I have not yet passed on that particular question.

That is merely an explanation.

Now, if you will call your witness and proceed.

Mr. Del Guercio: Mr. Gitlow

BENJAMIN GITLOW

called on behalf of the Government, having been previously duly sworn, testified further as follows:

Direct Examination

(Resumed)

By Mr. Del Guercio:

Q. Mr. Gitlow, I will show you a document

(Testimony of Benjamin Gitlow.)

dated November 30, 1927, and will ask you if you can identify it.

A. (Examining document) Those are the minutes of the Political Committee.

Q. Where you present at that meeting?

A. I was present; yes.

Q. Now, I refer you to page 2 of this document, to the [143] matters under the heading "Letter from the CI." What is the "CI?"

A. Communist International.

Q. And there appears under that heading, "Comrade Lovestone read the attached letter from the Presidium of the Comintern," and that thereafter a motion was made by Lovestone to the effect that the Agitprop prepare a letter to all DECs based on as many of the facts herein contained as can be released and brought up to apply to American conditions.

To what did Comrade Lovestone refer?

A. Comrade Lovestone referred to the letter which he received from the Presidium, which probably dealt with its views on certain developments of the country and in order to acquaint the membership of the Party with the views of the Presidium on these matters the Agitprop Department, that is the Agitation and Propaganda Department of the Party, prepared a letter on the basis of the letter received from the Communist International to send to the Party members.

(Testimony of Benjamin Gitlow.)

Q. I see. And was this one of the matters used by the Presidium of the Comintern to transmit its instructions to the Communist Party of the United States?

A. That was only one of the methods; they used many other methods.

Q. What do the initials "DEC" stand for?

A. District Executive Committee. [144]

Q. In the United States?

A. That means the District Executive Committees of the district organizations in the United States.

Q. Does the Communist Party have districts in the United States?

A. Yes. The organization is divided into districts. They have so many districts representing different sections of the country.

Q. Are you familiar with the various districts, that is, at the time you were in the Communist Party?

A. I think I am more or less familiar with the various districts.

Q. And how many were there at the time you were in, if you recall?

A. I think somewhere in the neighborhood of 15 districts.

Q. 15 districts? A. Yes, sir.

Q. And who was at the head of the districts; that is, what was the official position of the head of the district? A. District Organizer.

Q. District Organizer? A. Yes, sir.

(Testimony of Benjamin Gitlow.)

Q. How many were there on the Pacific Coast at the time you were in the party?

A. How many districts?

Q. Yes. [145] A. Two districts.

Q. Located where?

A. One in Seattle and one at Los Angeles—or one at San Francisco, rather, which was the headquarters at that time.

Q. And one at Seattle?

A. And one at Seattle.

Q. And how were the District Organizers chosen?

A. The District Organizers are chosen by the Political Committee and then referred to the District Executive Committees to elect them.

Q. Do you know the numbers of the districts here on the Pacific Coast at the time you were in the Party?

A. I think the California District was District 13; I am not sure at this time.

Q. I see.

A. They have changed the form of the District Organization.

Mr. Gladstein I didn't get that.

(The question referred to was read by the reporter.)

Presiding Inspector: Speak a little louder, please.

By Mr. Del Guercio:

Q. I call your attention to page 5 of this docu-

(Testimony of Benjamin Gitlow.)

ment, the matters under the heading "ILD." There appears thereunder the following: "Comrade Cannon reported on the ILD Conference and its work." Is that correct?

A. That is right. [146]

Q. And thereafter a motion was made by Cannon, which was carried unanimously, and among other things that the Polecom—that is the Political Committee, is it not? A. Yes.

Q. Of which you were a member?

A. Yes.

Q. That the Polecom approve the work and the general line of policy of the ILD work.

Now, what is the ILD referred to in that?

A. The International Labor Defense.

Q. Also as part of the same motion it appears: "To reiterate the original Party decision that every member of the Party should be a dues paying member of the ILD."

A. That is correct. I told you that in answer to one of the questions yesterday. You asked me about the ILD organization and I told you that every member of the Party automatically becomes a member of the International Labor Defense.

Q. And there also appears this; as part of the same motion the following appears "To instruct the Jewish Bureau to organize a Jewish Section of the ILD."

A. That refers to the Jewish Bureau of the Communist Party.

(Testimony of Benjamin Gitlow.)

The Polcom instructed the Jewish Bureau to proceed to organize its Jewish ILD organization.

Q. Now, I believe you have testified previously that the decision reached by this Polcom was binding upon all members [147] of the Communist Party; is that correct?

A. The decisions are always binding on all members of the Party.

Q. I refer you now to page 7—no—immediately below on page 5, immediately below the motion made by—

A. (Interposing) You mean page 5 or page 6?

Q. Page 5, Mr. Gitlow. Immediately below the motion made by Cannon appears a motion made by yourself—by Gitlow. Is that yourself?

A. That is myself, yes.

Q. It appears that you made this motion, "that Comrade Baron should be present at the time the reorganization of the New York District ILD is considered" and that that motion was carried unanimously; is that correct?

A. That is correct.

Q. Now, the ILD mentioned therein is the International Labor Defense?

A. The ILD mentioned there is the New York District of the International Labor Defense, the largest district of the International Labor Defense, and a question of its reorganization was considered first by the Political Committee of the Party. [148]

Q. If you will turn to page 7 of these minutes,

(Testimony of Benjamin Gitlow.)

under the heading "Daily Worker—Labor Unity," is that the magazine "Labor Unity" that you have testified concerning?

A. The Daily Worker is the Daily Worker, and the Labor Unity was the organ of the Trade Union Educational League.

Q. The Trade Union Educational League?

A. Yes.

Q. And the control of the Labor Unity, you stated, I believe, was exercised by this Political Committee or Polcom Committee?

A. According to these minutes it is very obvious. Comrade Lovestone reported on the question of putting Verne Smith on as Editor of the Labor Unity. The Secretariat recommends that the question be referred to the Polbureau with the following motions:

"1. That Smith be transferred from the Daily to edit Labor Unity.

"2. That Smith stay on the Daily Worker.

"3. That Smith should stay on the Daily Worker until adequate substitute help should be found for him and in the meanwhile Labor Unity be gotten out by Browder."

That proved conclusively that both the Daily Worker and Labor Unity were controlled, directed and dominated by the Political Committee of the Party.

Q. And the Browder mentioned is Earl Browder? [149]

A. That is Earl Browder; yes.

(Testimony of Benjamin Gitlow.)

Presiding Inspector: Labor Unity was a magazine?

The Witness: Labor Unity was a magazine that purported to be a non-Communist magazine, but published by the Communist Party through its organization, the Trade Union Educational League, which paraded as a non-Party organization.

Mr. Del Guercio:

Q. Do you see the Mr. Smith mentioned in this Committee report in the court room?

A. Yes; I think I see him back there.

Q. Where is he?

A. Well, he is kind of heavy set too.

Mr. Del Guercio: Will Mr. Smith stand up, please, if he is in the court room?

(Whereupon the party pointed out by the witness stood.)

By Mr. Del Guercio:

Q. What is Mr. Smith's position at the present time in relation to the Communist Party, if you know?

A. I read an account in the Peoples World and I believe he is a collaborator with the Peoples World published in San Francisco.

Mr. Del Guercio: I didn't get the answer. Will you read the answer, Mr. Reporter?

(The answer referred to was read by the reporter as above recorded.) [150]

The Witness: That is the Western Daily Communist newspaper.

(Testimony of Benjamin Gitlow.)

Mr. Del Guercio: I offer this document in evidence.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 33.)

Mr. Del Guereio: May we have the record show that Mr. Smith was identified by the witness?

Presiding Inspector: Yes. Mr. Smith voluntarily rose.

Mr. Del Guereio: Yes.

Presiding Inspector: He was identified.

By Mr. Del Guereio:

Q. One more question. Was this Mr. Smith a member of the Political Committee at the time?

A. No.

Q. Was he present at that meeting?

A. I would have to see the minutes to verify whether he was present. (Examining minutes) No, he was not present at that time.

Q. He was not present? A. No.

Q. I will show you another document, dated January 11, 1929, and ask you to state if you can identify it?

Mr. Gladstein: I thought it was dated 1928.

Mr. Del Guereio: 1929, I believe, Mr. Gladstein [151] no, 1928; you are right.

A. (Examining document) Those are the minutes of the Political Committee.

(Testimony of Benjamin Gitlow.)

By Mr. Del Giereio:

Q. Were you present at this meeting?

A. I was present—no, let me see—I was not present.

Q. I believe this shows that you were absent, is that correct? A. Yes.

Q. How did you come into possession of this document?

A. As a member of the Political Committee it was mailed to me.

Q. Please refer to the matters appearing under the heading, "Nicaragua, Mexico, Havana," on page 1 of this document.

A. This was in reference to the anti-Imperialist work, so-called, of the Party, at which Comrade Lovestone reported about the response of the District to instructions to call meetings on the Havana Conference. A suggestion was made that the Party should cable to the Cuban Party asking them to demonstrate against the Convention and stating the Party viewpoint thereon.

I think that had to do with reference to a campaign against the Pan-American Conference that was held in Havana at the time.

"Leaflets had been distributed in Boston, Philadelphia [152], and San Francisco to the soldiers, sailors, and marines."

Also special leaflets were printed by the Party and distributed to the soldiers, sailors and marines asking them not to coöperate with the Government's efforts at that time, particularly in Nicaragua.

(Testimony of Benjamin Gitlow.)

We sent marines to Nicaragua and there was a campaign being carried on there by Sandino and the Party took a stand against that action on the part of the United States Government.

Q. Do you know what the leaflets urged the American soldiers, sailors and marines to do?

A. I don't recall at that time.

Comrade Gomez reported that a leaflet was being published, 20,000 copies, on the Nicaragua situation, and that the meeting to be held Sunday where Sandino's brother will be one of the speakers.

Then there is a series of motions in reference to that.

Q. Who was the Sandino mentioned there?

A. Sandino was the head of the rebel forces in Nicaragua at the time.

Q. Do you know if the Communist Party was cooperating with him at that time?

A. The Communist Party at that time cooperated fully with Sandino and carried on negotiations with his brother, who happened to be in the United States at the time.

Q. Do you know if the Communist Party furnished Mr. Sandino [153] money?

A. This money was furnished to Sandino through other sources; not directly through the American Communist Party.

Mr. Del Guercio: I offer this document in evidence, if your Honor please.

Presiding Inspector: It may be received.

(The document referred to was received in

(Testimony of Benjamin Gitlow.)

evidence and marked Government's Exhibit No. 34.)

By Mr. Del Guerejo:

Q. I show you another document dated January 18, 1928, and will ask you if you can identify it?

A. (Examining document) Those are the minutes of the Political Committee.

Q. Were you present at this meeting?

A. No; I was not present.

Q. And you came into possession of this document in the same manner?

A. As a member of the Political Committee; yes.

Q. I refer you to page 4 of this document under the heading "Anti-Imperialist". What was discussed regarding that matter?

A. "Comrade Gomez reported on the recommendation to get someone else for Secretary of the AAAIL"—That is the Ali-American All Imperialist League. "The Committee now recommends the reconsideration of its former action for the following rea- [154] sons: Wrong move politically to remove someone merely because he is a Communist; that it is necessary to have someone who represents the point of view of the Party.

"Comrade Lovestone reported to the Secretariat on the question of the WIR"—that is the Workers International Relief "taking steps to organize for the raising of funds for medical aid for Sandino's army."

Now, this all-America Anti-Imperialist League

(Testimony of Benjamin Gitlow.)

was organized by the Communist Party on instructions from Moscow for the express purpose of presenting a so-called non-Communist Anti-Imperialist front.

Gómez was a Party member and was Secretary of the organization, and evidently some of the non-Communists connected with the All-American Anti-Imperialist League didn't want a Communist at the head of the organization.

The matter was discussed by the Political Committee and it was decided to keep a Communist Secretary as Secretary of the organization.

The other motion refers to a motion by Lovestone that the Workers International Relief, which is a part of an international organization with headquarters in Moscow for the purpose of collecting funds for relief purposes, directing that the American branch of that organization, the Workers International Relief, collect funds for medical supplies for Sandino's army.

The question of munitions and such other things came directly, [155] through confidential committees set up by the Communist International, and not through the American Party at that time. [156]

Q. Were you present at any Committee meeting which discussed the question of furnishing guns and ammunition to Sandino's Army?

A. No; that was a special committee.

Q. That was a special committee?

A. Yes, of the Communist International.

Q. Of the Communist International?

(Testimony of Benjamin Gitlow.)

A. Yes.

Q. In Moscow, Russia?

A. It was in Moscow, Russia, at the time.

Q. I refer you now to page 4—no—to page 5 of this document, particularly the motions made by Dunne. To what does that refer, Mr. Gitlow, the last motion appearing on that page?

A. (Examining document): Well, that is in reference to an indictment of the Daily Worker, and Comrades Engdahl, Dunne and Gordon who were connected with the Daily Worker at the time, by the Federal Grand Jury of the New York District, and Dunne made motions that the Daily Worker give such publicity to this indictment, that the Daily Worker and the Party start a campaign for financial support of the Daily Worker on the basis of this indictment; a whole series of motions concerning the defense of the Daily Worker and the raising of funds for their defense.

Q. Now, was a motion made by Dunne to the effect that the [157] International Labor Defense should have charge of the case and that they should at once begin organizing mass support for the defense?

A. That is true; that was included in the series of motions.

Q. And that motion was carried?

A. That motion was carried unanimously.

Q. And do you know if thereafter the International Labor Defense did carry out that instruction? A. Of course, it carried it out.

(Testimony of Benjamin Gitlow.)

Q. Do you know what the Daily Worker was indicted for at that time?

A. I can't recall at this time the specific indictment.

Q. Now, among the motions made by Dunne appears this:

"The main slogan of the campaign shall be: 'Defend the Daily Worker, the only American Daily that fights for the working class.' " Is that correct?

A. That is the motion that was made by Dunne, yes.

Q. Now, does the Daily Worker fight for the working class?

A. No; the Daily Worker fights for the Communist Party, fights for the Soviet Union, and in the last analysis, fights for everything that Joseph Stalin does.

Q. And all of its efforts are directed to the accomplishment of the aims and objects of the Communist Party; is that correct?

A. All its efforts are subject to the aims and objects [158] of the Communist Party, dictated by Moscow, and in the last analysis, by Stalin.

Q. And the ultimate aims and objects of the Communist Party, is, as you have previously testified, the forcible overthrow of the Government of the United States by force and violence?

A. That is correct.

Q. And do you know why the Communist Party would direct that such a slogan as I have just read to you, as follows: "The only American Daily that

(Testimony of Benjamin Gitlow.)
fights for the working class—” do you know why they use such slogan?

A. They use such slogans because the Communist Party wants to use, as its main vehicle in the overthrow of the Government, the working class, and for that purpose they parade as the vanguard, as the champions, as the fighters for the working class.

Mr. Del Guercio: I offer that document in evidence, your Honor.

Presiding Inspector: It may be received.

(The document referred to was received in evidence as Government's Exhibit No. 35.)

By Mr. De Guercio:

Q. I will show you another document dated June 14, 1928, and ask you to state what it is.

A. (Examining document): Those are the minutes of the Political Committee. [159]

Q. And were you present at this meeting?

A. I was present, yes.

Q. I will direct your attention to page 1 of this document, under the heading “Negro Question”, and ask you to state what matters were discussed regarding the Negro Question at this Political Committee of the Communist Party?

A. Comrade Swift submitted the following motions for the Negro Committee on the situation of the Pullman Porters. “Attached draft of statement was submitted by Comrade Swift.”

Comrade Swift's real name was Joseph Pogany,

(Testimony of Benjamin Gitlow.)

P-o-g-a-n-y, and he was sent to the Communist Party of the United States by the Communist International, and he operated in the Party under two names, under the name of John Pepper and the name of John Swift.

The motions are as follows: That "The Party must enter actively into the Pullman Porter situation.

"2. A statement should be issued in the name of the Party; another one in the name of the ANLC—American Negro Labor Congress,—and a third in the name of the TUEL", and this is important: This motion—to clarify what it means—the American Negro Labor Congress was presumably, as far as the public was concerned, a Negro organization and not a Communist Negro organization. The Communists denied that they had anything to do with the American Negro Labor Congress, but this Congress was organized under special instructions from the Communist [160] International. Its funds are supplied by the Communist Party and its policies were determined by the Political Committee of the Party, and, of course, the same can be said of the TUEL, which indicates how they operated in so-called non-Party, or front organizations which the Party from time to time organized.

Q. And why did the Communist Party enter actively into the Pullman Porter situation? For what purpose?

A. The purpose in the Pullman Porters was the

(Testimony of Benjamin Gitlow.)

same as in any other organization, to make contacts and to win influence among the Negro workers, and in the Negro population for its own objectives.

Q. Well, would you say that they entered into it for the purpose of helping the Negro?

A. They may at the beginning have done a number of things that might have helped the Negroes, but their ultimate aim was to gain influence over the Negroes, to use the Negroes for their own purposes.

Q. Do you know what the Communist Party's policy or program was regarding the Negro situation in the United States?

A. In 1928 a special commission was appointed by the Communist International at its Sixth World Congress, that was held in Moscow, to consider the Negro question, and in said Congress a decision was made on Negro policy for the United States, and the policy adopted was one of self-determination for the Negro population in the United States, and that Party, in those sections of the South in which the Negro population [161] constituted a majority of the country, of the territory, that there the Party should advocate the organization of an independent Negro Republic.

Q. And do you know how they were to accomplish this policy, this program?

A. Naturally, the successful culmination of such a policy would depend on a general revolution in the United States.

(Testimony of Benjamin Gitlow.)

Q. And you say that that policy was formulated by the Communist International and transmitted to the Communist Party in the United States to carry into effect?

A. Yes, it was transmitted to the Communist Party of the United States. The Communist Party of the United States never discussed the question. It became Party policy, and literature on the matter was published also.

Q. What do you mean by saying that that was never discussed by the Communist Party of the United States?

A. Because it was settled in Moscow first; in other words, it was not a recommendation from the American Party for consideration by the Communist International; but it was discussed in Moscow first. There the decision was made and the policy handed down to the American Party, and the American Party had to adopt that and to accept it and to carry it out. Naturally, anybody knowing conditions in the United States would know that the carrying out of such a policy would lead to the [162] most bloody Civil War, particularly in the South.

Q. Mr. Gitlow, I refer you to page 10 of this meeting, particularly under the head of "Election of Members to the ECCI."

Is that the Executive Committee?

A. Just a moment; I will get the page.

Q. Of the Communist International?

A. Yes, that is to the Executive Committee of the Communist International.

(Testimony of Benjamin Gitlow.)

Q. I note that a motion was made and carried, "that the Secretariat, Lovestone, Foster and Gitlow, be the three delegates." To what does that refer, Mr. Gitlow?

A. That is that they shall be the three delegates for membership in the Executive Committee of the Communist International.

Q. And are you the Gitlow mentioned?

A. I am the Gitlow mentioned.

Q. Was that motion carried?

A. That motion was carried.

Q. And did you serve in such capacity?

A. I served in such capacity.

Q. And did you go to Russia thereafter?

A. I went to Russia—what year was that—I went to Russia after that to the Fourth World Congress of the Red International of Trade Unions.

[163]

Q. That motion, it appears, was made by Stachel. Who is Stachel?

A. That is Jack Stachel. He was a member of the Central Executive Committee and the head of the organization department of the Party.

Q. What is the first name?

A. Jack Stachel.

Q. Jack; I beg your pardon.

And who is the Bittleman mentioned immediately following that motion?

A. That is Alexander Bittleman.

Q. And who is he?

(Testimony of Benjamin Gitlow.)

A. A member of the Political Committee of the Party.

Mr. Del Guerico: I will offer this document in evidence, your Honor.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 36.)

By Mr. Del Guerico:

Q. I will show you another document dated June 27, 1928, and ask you if you can identify it.

A. (Examining document): Those are the minutes of the Political Committee.

Q. Were you present at that meeting?

A. I was present at that meeting.

Q. I refer you to page 4 of this meeting. On the [164] bottom of page 4 there appear motions made by Gitlow as follows:

"1. That the ILD shall take steps immediately to secure the release of Murdoch and Beal so that they can take up their strike activities."

Did you make such a motion?

A. I made such a motion.

Q. And was it carried?

A. It was carried, yes.

Q. As part of the same motion I note this, Mr. Gitlow:

"That Zelms be removed as ILD organizer of the Massachusetts District."

Did you make such a motion?

(Testimony of Benjamin Gitlow.)

A. Yes, I made such a motion.

Q. Well, I note immediately thereunder that that was withdrawn in favor of the Stachel motion made later? A. Yes, sir.

Q. Is that correct? A. That is right.

Q. And what was the Stachel motion in connection with that matter?

A. That Zelms go to New York on money from the International Labor Defense.

Q. Did the Political Committee have authority to do that?

A. Well, if the Political Committee—if the ILD had a thousand dollars, and it was all the money it had in its [165] treasury, and the Political Committee wanted it, it could make a motion for the ILD to turn it over.

Q. In other words, it exercised complete control over the ILD?

A. Complete and absolute control.

Q. I refer you to page 5 of this document under the heading "Motions by Weisbord" to the effect that "the ILD National Office at once get into the field and make a survey of what is to be done."

Is that correct?

A. On what page do you say that is?

Q. On page 5, about the middle.

A. (Examining document): Yes.

Q. To what does that refer, Mr. Gitlow?

A. That refers to the New Bedford District, and a motion made by Weisbord instructing the ILD National Office to send one of its organizers to

(Testimony of Benjamin Gitlow.)

New Bedford to make a survey of what it can do in the situation.

Mr. Del Guercio: I offer this document in evidence, if your Honor please.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 37.)

Presiding Inspector: These white slips that are attached to the documents are just blank slips?

Mr. Del Guercio: Yes, your Honor. [166] They are only for our identification and not a part of the document.

Presiding Inspector: That is quite all right; but I haven't seen them and I didn't know if there was any writing on them.

By Mr. Del Guercio:

Q. I will show you another document dated November 14, 1928, and ask you if you can identify it.

A. (Examining document): Those are the minutes of the Political Committee.

Q. Were you present?

A. I was present, yes.

Q. Mention is made in it of the CEC. What is the CEC?

A. Central Executive Committee of the Communist Party.

Q. On page 1 of this document appears "1. International Communications."

To what does that refer, Mr. Gitlow?

(Testimony of Benjamin Gitlow.)

A. "International Communications" refers to communications from the Communist International.

Q. From the Communist International?

A. Yes.

Q. There also appears on page 1 a motion by Lovestone, "To reaffirm the Polbureau decision to send Comrade Wicks as the representative to the Profintern." Is that correct?

A. That is correct.

Q. What is the Profintern? [167]

A. The Profintern is the Red International of Trade Unions.

Q. And located where? A. In Moscow.

Q. And who is the Comrade Wicks mentioned?

A. He is a member of the Party.

Q. Do you know his full name?

A. I think it is Harold M. Wicks.

Q. Now, on page 7 of this document, under the heading of "Report by Foster on Trade Union Appropriation," reference is made to certain funds received during the absence of Foster as members of the Secretariat.

A. On what page is that?

Q. Do you know what that had reference to? On page 4; I beg your pardon; on the top of page 4.

A. Yes. "That the Polburo takes cognizance of the following facts:—"

That is the "Report by Foster on Trade Union Appropriation."

"Motion by Lovestone: That the Polburo takes cognizance of the following facts:

(Testimony of Benjamin Gitlow.)

"1. These funds were sent and received here during the absence of Foster and Lovestone as members of the Secretariat.

"2. These funds were sent through the regular channels and received as such.

"3. The information received during the absence of [168] Comrades Foster and Lovestone regarding these funds was confusing.

"4. That the funds, however, were sent entirely for mining work and even far in excess of the appropriation.

"5. That the Secretariat go over the accounts of the mining expense from date of receipt of funds till today and check up to see if any money has not yet been sent on mining, or if any debts were contracted on the basis of this appropriation, the Secretariat takes steps to meet the debts."

"6. The Polcom stakes note of the fact that almost all the debts contracted on the basis of the appropriation of this sort forthcoming, have already been paid."

This refers to a special fund, the original amount, the first payment of which amounted to \$50,000, which was sent to this country by the Communist International to finance a campaign in the Miners' Union, the object of which was to defeat John L. Lewis as President of the Miners' Union in the forthcoming elections. Later that fund was augmented, and these motions refer to that special fund. [169]

(Testimony of Benjamin Gitlow.)

Q. Do you know that, Mr. Gitlow, of your own knowledge?

A. I know that of my own knowledge, as a member of the Secretariat, as a member of the Polecom, and as a member of the Provintern, and one who had intimately to do with the expenditure of these funds.

Q. How were the expenditure of these funds accounted for, Mr. Gitlow?

A. They were accounted for—whatever expended the funds received receipts on an ordinary piece of paper for so much and so much money. They were not kept in the bookkeeping accounts of the National office of the Party.

Q. Why not?

A. They were kept in strictest confidence.

Q. Why weren't they kept in the usual course of business?

A. Because if the Party books had to be audited, or if something happened, if an investigation was made of Party accounts, the Party would have difficulty in accounting for the expenditure of such a large sum of money.

Q. Is that the same Foster concerning whom you have previously testified?

A. William Z. Foster; yes.

Q. Did he have any connection with the forming of the TUEL in the United States?

A. Yes. He was the original head of the Trade Union Educational League. [170]

(Testimony of Benjamin Gitlow.)

Q. Do you know the circumstances under which he organized the TUEL in the United States?

A. Yes. Foster made a trip to Moscow in 1921, and in Moscow the question of how to get control of the American trade unions was discussed, and a policy was adopted.

They had two parts to that policy: One was that Foster should organize what we called a left wing opposition movement, to be known as, the Trade Union Educational League, to concentrate on boring within the American Federation of Labor. That was one part of the policy, which was the organization of the Trade Union Educational League. The Comintern supplied the funds for getting that organization started. It sent a special representative to this country, Scott, who had ample funds to see that the work progressed properly.

The other part was the question of organizing a broad opposition movement in the American Trade Union movement.

Moscow conceived the possibility of uniting the progressives in the American Federation of Labor; the independent unions then in existence, primarily the Amalgamated Clothing Workers of America, and the Railroad Brotherhoods, into a bloc that would break away from the American Federation of Labor and form a separate trade union organization.

That policy culminated in success when the Congress for Industrial Organizations was organized.

(Testimony of Benjamin Gitlow.)

Q. At the time that Foster organized this TUEL was he a [171] member of the Communist Party?

A. At that time—he joined the Communist Party in 1921 in Moscow, but when he returned to this country we kept his membership secret and up 'till the end of 1924 he paraded as a non-Communist.

Q. He stated, did he not, that he was not a Communist when asked during that period of time?

A. Oh, yes; and during the Bridgeman Trial he testified he was not a Communist Party member.

Q. He testified falsely, did he not?

Mr. Gladstein: Would you fix the year of that, your reference there?

Mr. Del Guercio: About Foster testifying concerning—

Presiding Inspector: The Bridgeman Trial—read the previous question, please.

(Question referred to was read by the reporter as above recorded.)

By Mr. Del Guercio:

Q. When was the Bridgeman Trial?

A. In 1924.

Q. What was the occasion for Mr. Foster denying that he was a member of the Communist Party?

A. Because we organized the whole defense of Foster on that basis, and Foster, operating as the leader of the Trade Union Educational League appeared in the country as a [172] progressive trade unionist and not as a Communist, and all the time he was a member of the Political Committee of the

(Testimony of Benjamin Gitlow.)

Party, and served on the most confidential committees of the Party organization.

Presiding Inspector: Read the first part of that last answer. I want to have Mr. Gitlow clear on whether he hasn't misstated one name there.

(The answer referred to was read by the reporter as above recorded.)

Presiding Inspector: You mean the defense of Foster?

The Witness: The defense of Foster. He was indicted in Michigan as a result of a secret convention.

Presiding Inspector: You are not now talking about the Bridgeman case at all?

The Witness: No; no.

Presiding Inspector: I misunderstood you.

By Mr. Del Guercio:

Q. You say that Foster testified falsely under oath that he was not a member of the Communist Party? A. That is correct.

Q. Upon whose direction did he so testify?

A. The whole policy for that defense was worked out by the Political Committee of the Party.

Q. And it is the practice of the Communist Party to instruct its members, particularly labor leaders, to deny membership in the Communist Party if it serves their purpose?

A. Absolutely.

Q. And Foster was a labor leader at that time, was he not?

(Testimony of Benjamin Gitlow.)

A. Well, he tried to create the impression that he was a labor leader.

Q. And that is denominated by the Communist Party as their policy of hypocrisy and deceit?

A. That was one of the accepted practices. You can find verification of that in the founder of the Communist movement, Lenin, in his pamphlet "Left Sickness", in which he discusses the trade union question.

Mr. Del Guercio: I offer this document in evidence, if your Honor please.

Presiding Inspector: It will be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 38.)

By Mr. Del Guercio:

Q. Do you know, Mr. Gitlow, what the instructions of the Communist Party are regarding the giving of testimony in any court of law by Communist Party members?

Mr. Gladstein: As of what time?

Mr. Del Guercio: As of any period within his knowledge.

A. That depends on the particular case and the particular circumstances. The Communists always believe in flexibility [174] in tactics and in policy.

Q. Have they ever instructed, within your knowledge, members of the Communist Party to appear in a court of law and deny their membership in the Communist Party?

A. They have.

(Testimony of Benjamin Gitlow.)

Q. On how many occasions?

A. On many occasions.

Q. That is, they are instructed to testify falsely under oath?

A. As to their membership in the Communist Party?

Q. That they are not members of the Communist Party? A: Yes.

Q. That is an established practice of the Communist Party when it suits their purposes?

A. When it suits their purposes; yes, sir.

Mr. Del Guercio: I believe I offered the last document in evidence?

Presiding Inspector: Yes; it has been marked.

By Mr. Del Guercio:

Q. Mr. Gitlow, that practice and policy was also the practice and policy in connection with alien members of the Communist Party applying for citizenship?

A. With all members of the Communist Party, whether they applied for citizenship or in court, or where the circumstances brought them. [175]

Q. I will show you a document dated November 23, 1928, and ask you to state if you can identify it?

A. (Examining document) These are the minutes of the Political Committee.

Q. Were you present at this meeting?

A. I was present; yes.

Mr. Del Guercio: May I ask the Court's indulgence for a moment, please?

(Testimony of Benjamin Gitlow.)

Presiding Inspector: Yes.

By Mr. Det Guercio:

Q. I note, Mr. Gitlow, among those present is shown one Marcus—M-a-r-c-u-s—that is, present at this meeting of the Political Committee of the Communist Party, is that correct?

A. That is correct.

Q. Was he present? A. He was present.

Q. Who is Marcus?

A. Marcus was a representative of the Communist International to the American Party.

Q. Is that his true name?

A. Not his true name; no.

Q. I refer you to the matters appearing under the heading "International Communications" appearing on page 1, at the bottom of page 1. To what do they refer, Mr. Gitlow? [176]

A. "Communication from Engdahl stating that the Secretariat of the International Committee of Mopr has decided that Rose Baron should be National Secretary of the ILD."

Engdahl, at the time, was the Party representative, the American Communist Party representative to the Communist International. He reported to us on a decision of the International Committee of Mopr—that is the parent organization, the international parent organization of the ILD, the organization in Moscow to which the ILD is affiliated, that it had decided that Rose Baron should be made the National Secretary of ILD.

(Testimony of Benjamin Gitlow.)

Q. That is the usual manner in which the Secretary of the International Labor Defense—

A. (Interposing) That was the usual manner, and that recommendation was not carried out because it didn't come through the Party, through the Communist International. The proper instructions for such a change in ILD officialdom should have been transmitted to the Communist International by the Mopr, and then if the Communist International agreed with the International Mopr Committee's decision, then to the United States.

Q. Do you know the Rose Baron mentioned there? A. I know Rose Baron.

Q. Personally? A. Yes. [177]

Mr. Del Guercio: I offer this document in evidence.

Presiding Inspector: It will be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 39.)

By Mr. Del Guercio:

Q. I show you some papers dated, typewritten papers, dated June 27, 1925, and ask you to state if you know what they are?

A. (Examining papers) That is a meeting of the Secretariat.

Q. On the top of the first page appears "Executive Council." What is that?

A. I don't see it—just a moment—I don't see any "Executive Council" here.

(Testimony of Benjamin Gitlow.)

Presiding Inspector: You are not looking at the same paper, I take it.

The Witness: Probably not.

By Mr. Del Guercio:

Q. Well, it is my error—on the second page.

A. There are two sets of minutes here; one set is that of the Secretariat and the other one is of the Executive Council.

Q. Yes. It is the second page that you have where reference is made to the Executive Council. What is that?

A. That was the title used for the Political Committee [178] in the year 1925.

Q. And I note Comrade Cannon submitted a slate of candidates for the National Committee of the ILD, and that thereafter Comrade Lövestone made a motion that three others be added; is that correct?

A. Yes. This is very interesting, this motion. "Comrade Cannon submitted the following list for members of the Executive Committee of the International Labor Defense League."

There was a conference to be held soon of the International Labor Defense and the Political Committee was considering how to constitute the National Committee of the International Labor Defense, and the following recommendations were made by Cannon:

That the Party members to the National Committee shall be Dolla, Cannon, Maurer, Dunne, Cora Meyer, William Mollenhauer, Robert Minor, Har-

(Testimony of Benjamin Gitlow.)

rison George, Foster, Karsner, Ruthenberg, Gitlow, Dan W. Stevens, Fred Merrick, Rose Baron and Fred Beidenkapp.

That the non-Party members, not members of the Party, who should be made members of this Committee, should be Debs, Nearing, Robert W. Dunn, R. W. Whitaker, Bishop M. Brown, Wentworth, Howat, A. S. Blackwell, Ellen Hayes, McNamara, Meitzen, Ralph Chaplin, and Fred Mann.

But among this list of non-Party members we had the following secret Party members whose membership was not disclosed: Robert W. Dunn, Bishop M. Brown, Meitzen and Ralph Chaplin.

Q. You said the ones you last mentioned were Communist Party members whose identities were not disclosed by the Communist Party?

A. Yes.

Q. Was that in accordance with this practice of hypocrisy and deceit?

A. That is part of the general policy in that direction; yes.

Mr. Del Guercio: I offer this document in evidence, if your Honor please.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 40.)

By Mr. Del Guercio:

Q. I will show you a document dated July 24, 1925, and ask you if you can identify it?

(Testimony of Benjamin Gitlow.)

A. (Examining document) They are the minutes of the Secretariat.

Q. And were you present at this meeting?

A. No, I was not present.

Q. How did this document come into your possession?

A. As a member of the Political Committee I received it.

Q. Now, there appears on this document, under the heading "Policy in the Machinists' Union," among other things, [180] this: "That those members of the Party who are not known as members of the Party shall sign the statement required denying membership in the organization." Is that correct?

A. That is correct.

Q. Is that common practice of the Communist Party?

A. That was the common practice in all trade union situations in which the membership of the Party was tantamount to expulsion from the Union.

Q. And what do the words "sign the statement required denying membership in the organization" mean?

A. Well, the Machinists' Union requires each and every member to sign a statement denying they are members of the Communist Party, and the Party instructed its membership in the Machinists' Union to sign such a statement.

Q. And was that done in other unions?

A. That was done in other unions also.

(Testimony of Benjamin Gitlow.)

Mr. Del Guercio: I offer this document in evidence, if your Honor please.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 41.)

Presiding Inspector: We will recess for five minutes.

(Whereupon a short recess was taken.)

Presiding Inspector: I think we are all ready to proceed. [181].

By Mr. Del Guercio:

Q. I will show you a document dated October 19, 1925, and ask you if you can identify it.

A. (Examining document) Those are the minutes of the Secretariat.

Q. And how did you come into possession of this document?

A. As a member of the Political Committee I received it.

Q. I refer you to page 3 of this document, to the matters appearing immediately following the heading "Rules for Credit". To what does that refer, Mr. Gitlow?

A. The Daily Worker at that time also ran a job printing plant in Chicago. The organizations of the Communist Party did their printing in the Daily Worker job printing plant. The Daily Worker was too liberal in granting credit, so the

(Testimony of Benjamin Gitlow.)

Political Committee reviewed the situation and adopted certain rules for credit in the future.

Q. And what were those rules, particularly with reference to the International Labor Defense?

A. "The International Labor Defense must reduce its indebtedness to \$500, and the credit limit of that organization shall be that amount hereafter with the further rule that no bill shall run longer than 30 days."

Q. I now call your attention to page 5 of this document, those matters appearing under the heading: "Further AAAIU Matters." To what organization does that refer? [182]

A. The All-American Anti-Imperialist League.

Q. And reference is made therein to the Marine Transport Workers Conference to meet in Havana, Cuba, January 15, 1925. What was the Marine Transport Workers Conference, Mr. Gitlow?

A. That was a conference which was organized by the Communist International through the Red International of Trade Unions, to be held in Cuba, and it was for the purpose of bringing together the Marine Transport organizations of all countries on the basis, first, of anti-Imperialist workers and, second, to organize them into a block for special work on the water fronts and on the high seas.

Q. So that the Marine Transport Workers was a Communist conceived organization?

A. A Communist conceived Conference—a Conference at that time.

Q. And what was its purpose, its object?

(Testimony of Benjamin Gitlow.)

A. Its object primarily was to form an organization of transport workers in the Western Hemisphere which would be controlled by the Communists.

Q. And to what end?

A. Towards the general Communist ultimate end.

Q. Which is?

A. Is to gain control and influence over the members of the Marine Transport Industry so they can use them in a revolutionary capacity whenever necessary. [183]

Mr. Del Guercio: I offer this document in evidence, if your Honor please:

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 42.)

By Mr. Del Guercio:

Q. I will show you a document dated October 27, 1925, Mr. Gitlow, and ask you to state what it is?

A. (Examining document) Those are the minutes of the Secretariat.

Q. Were you present at this meeting?

A. No, I was not present.

Q. How did you come into possession of this document?

A. As a member of the Political Committee.

Q. I notice there as present, Loeb, Bell, and Wirkula, on the matter of the Daily Worker, is that correct?

(Testimony of Benjamin Gitlow.)

A. Correct. Loeb was business manager of the Daily Worker; Wirkula was in charge of the plant, and Bell was one of the workers in the Daily Worker.

Q. I call your attention to the matter appearing on page 1 of this document under the heading "Federated Press", and ask you what that refers to?

A. Well that refers to a protest on the manner in which the Federated Press handled a story concerning the handling of Hillquit in New York City in which some slurring [184] remarks were made of the Communists who picketed the boat, and a motion was made by Comrade Cannon to send a protest to the Federated press, stating the facts of the case and caution Comrade Shields to be more careful in the future.

Shields worked on the Federated Press at that time and was a Party member. This motion was made instructing him to be more careful in the future.

Q. Now, there is also mention made on page 1 of these minutes to the Anita Whitney case in California.

Do you know what that refers to?

A. No, I don't know. I know generally that it referred to one of the old cases here involving the IWW, but the exact nature of the case I don't know.

Q. Well, now, under that heading there appears this statement:

(Testimony of Benjamin Gitlow.)

"Comrade Cannon reported that Roger Baldwin had started a campaign to secure a pardon for Anita Whitney, a WP member of much prestige, who is in jail in California together with a number of IWW members. Anita Whitney takes a stand against this"—and then the next word is blurred—"individual pardon."

Thereafter a motion was made by Cannon as follows:

"Nationally and in California, our policy is to use the Anita Whitney case as a basis for a fight for the unconditional release of Comrade Whitney and the IWWs." [185]

That motion was carried unanimously, was it not?

A. That is right.

Q. That was binding upon all Communist Party members? A. That is right.

Mr. Del Guercio: I offer this document in evidence, if your Honor please.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 43.) [186]

By Mr. Del Guercio:

Q. I show you another document dated September 15, 1927, and ask you if you can identify it.

A. (Examining document) Those are the minutes of the Secretariat:

Q. Were you present at this meeting?

A. I was present, yes.

(Testimony of Benjamin Gitlow.)

Q. I refer you to page 2 of this document to the matter appearing under the heading, "Representatives to Comintern and Profintern," and ask you to state what motions, if any, were made on that matter?

A. "Motion by Lovestone: That we send two new representatives, Engdahl to the Comintern and some first line comrade to the Profintern. That Harrison George should not be kept as the representative of the Profintern."

Voting for that motion was two for the motion and one against, which meant that Lovestone's motion carried, and Engdahl went to the Comintern as the representative of the Communist Party of the United States, and another person was elected later, I suppose, for the representative to the Profintern.

Q. Now, who is the Harrison George mentioned?

A. Harrison George is the Editor of the Peoples World, a member of the Communist Party, and at the time of this motion was a representative of the Party to the Profintern.

Mr. Del Guercio: I offer this document in evidence, if your [187] Honor please.

Presiding Inspector: It will be received.

(The document referred to was received in evidence and marked as Government's Exhibit No. 44.)

By Mr. Del Guercio:

Q. Is he any relation, if you know, to Earl Browder?

(Testimony of Benjamin Gitlow.)

A. I think he married Earl Browder's sister; I am not sure.

Q. I will show you another document dated September 16, 1927, and ask you if you can identify it?

A. A meeting of the Secretariat.

Q. Were you present at the meeting?

A. I was present, yes.

Q. I refer you to the matter appearing at the bottom of page 1 under the heading "Cablegram to CI" and ask you to state what that refers to?

A. That refers to a cable which Lovestone took up at the meeting of the Secretariat for transmission to the Communist International, and it is as follows:

"Infecci Central Decides Weinstone Remain New York Organizer Stop Swabeck Chosen National Work Probably Departmental Head Stop TUC Organized Parity Basis Stop Foster Head Tudepartment Stop Lovestone Executive Secy."

It means—translated it means, as follows:

Inform the Executive Committee of the Communist International that the Central Executive Committee of the Communist Party [188] of the United States desires that Weinstone shall remain the organizer of the New York District Stop. That Swabeck was chosen for national work"—probably some departmental head of the Party "Stop That the Trade Union Committee of the Central Executive Committee of the Party was organized on a paritive basis", meaning that both factions in the Party had equal membership on the Trade Union Com-

(Testimony of Benjamin Gitlow.)

mittee of the Party. "Stop That Foster is the head of the Trade Union Department of the Party Stop That Lovestone is the Executive Secretary of the Party."

And all these appointments and changes in the Party organization, before they actually could go into effect, had to meet with the approval of the Communist International.

Q. And was it for that reason that they were transmitted to the Communist International?

A. That was the reason they were transmitted.

Mr. Del Guercio: I offer this document in evidence.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 45.)

The Witness: What is the number of that Exhibit, please?

The Reporter: Government's 45.

By Mr. Del Guercio:

Q. I will show you a document dated September 21, 1927, and ask you if you can identify it.

A. (Examining document): Those are the minutes of the [189] Secretariat.

Q. Were you present at that meeting?

A. I was present.

Q. I refer you to page 4 of this document, under the heading "Pickens." Comrade Lovestone reported that Comrade Pickens desires permission to

(Testimony of Benjamin Gitlow.)

go to the Soviet Union", and that thereafter a motion was made by Lovestone "That we notify Comrade Pickens that when he is ready to go we will take the matter up with him", and that was carried.

A. Yes, sir.

Q. Why was it necessary to make such a motion in connection with the desire of Comrade Pickens to go to Russia?

A. Well, no Party member could leave the United States on his own volition and go to the Soviet Union. He had to get permission first from the Party. The Party acted as a sort of consulate for the Soviet Union in such matters, not only for Party members, but also for non-Party members, for non-Party people as well. Before any man of prominence could leave the United States for the Soviet Union the Communist International would make a—would ask for information concerning the individual and whether we approved his going to the Soviet Union.

Mr. Del Guercio: I offer this document in evidence.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 46.)

By Mr. Del Guercio: [190]

Q. I refer you to the second page of this document, under the heading, "ILD." That is the International Labor Defense?

(Testimony of Benjamin Gitlow.)

A. (Examining document) Yes, sir.

Q. And what was taken up at this Committee meeting regarding the ILD?

A. At this Committee meeting there was taken up the question of the location of the national office of the ILD, and also matters concerning the coming national conference of the International Labor Defense.

Q. I will show you a document dated, apparently, October 19, 1927, and ask you to state what it is.

A. (Examining document) Minutes of the Secretariat.

Q. And were you present at this meeting?

A. I was present, yes.

Q. May I see that, Mr. Gitlow, please?

A. Surely (Handing document to Mr. Del Guericio).

Q. Here; thank you. I wanted to compare it with the photostat that I had.

I call your attention to page 2 of this document, and particularly to the matters under the heading "ILD matters," and ask you to state what was discussed and done regarding ILD matters at this meeting?

A. According to the minutes "Comrade Cannon reported that the program of the conference will be presented to the Secretariat within a week."

[191]

In other words, he was preparing a program for the conference which had to meet with the approval

(Testimony of Benjamin Gitlow.)
of the Secretariat and the Political Committee,
which we would get in a week's time.

“Motion by Cannon: That the National Office
instruct all Party papers to turn over their sub-
scription lists for use by the International Labor
Defense.”

“Motion by Cannon: That all arrangements be
authorized for Comrade Cannon's making a tour
for two months from coast to coast.

“Amendment by Lovestone: That the tour of
Comrade Cannon should cover a total of two
months, though not continuous.”

Motion and amendment carried.

Q. Now, at the bottom of that page, Mr. Gitlow,
appears this:

“Women's Work” and under it appears the name
of Comrade K. Gitlow.

A. That was my mother.

Q. Your mother. And what was discussed and
done by the Political Committee in that connection?

A. My mother was elected to go to the Tenth
Anniversary Celebration of the Soviet Union and
also to investigate conditions of the working woman
in the Soviet Union.

Q. Now, on the next page, page 3, I note that a
motion was made by Lovestone, among other things
“That a credential be given to Comrade Gitlow as
a member of the Party and as a [192] responsible
figure in the women's work.”

What kind of a credential does that refer to, Mr.
Gitlow?

(Testimony of Benjamin Gitlow.)

A. That is the credential given to party members from the Communist Party of the United States to the Communist International.

Q. And do you know if such a credential was given your mother? A. Yes, sir.

Q. Did she go to the Soviet Union?

A. Yes, she went.

Mr. Del Guercio: I offer this document in evidence.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 47.).

By Mr. Del Guercio:

Q. I show you what purports to be a silk certificate of identification containing the hammer and sickle and the legend "Central Executive Committee—Workers Party of America—" and ask you if you can identify it?

A. (Examining document). Yes.

Q. Was that the certificate that was given to your mother?

A. Yes, that is the form of the credential that was given to every Party member going to Moscow to present to the Communist International. It was generally sewn underneath the [193] lining of one's coat.

Q. Very many of these certificates issued?

A. To every Party member who goes on official business such a certificate was issued in my times.

(Testimony of Benjamin Gitlow.)

Q. On official business. Now, what do you mean, "Official business"?

A. In which the Party—for example, my mother at that time went officially to be represented at the celebration, and to the Women's Department of the Communist International, to investigate women's work and the affairs of working women in the Soviet Union.

Q. That is signed by whom, Mr. Gitlow?

A. That is signed by the Executive Secretary of the Party, and if he is not present, by any member of the Secretariat.

Q. Have you ever issued any of those?

A. I have.

Q. Those certificates? A. I have.

Q. How many would you say?

A. I can't say at this time, but any number of them.

Q. Are they generally issued to—you say they are generally issued to persons leaving the United States on the business of the Communist Party?

A. Yes, sir. [195]

Mr. Del Guerejo: I will offer this in evidence, if your Honor please.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked as Government's Exhibit No. 48.)

By Mr. Del Guerejo:

Q. Would such a certificate be given to a non-Party member? A. Never.

(Testimony of Benjamin Gitlow.)

Q. Would such a certificate ever be given to a non-Party member to give to a member of the Communist Party? A. Never.

Q. I show you a document dated December 13, 1927, and ask you to state if you can identify it.

A. (Examining document) These are the minutes of the Secretariat.

Q. And were you present at this meeting?

A. I was present, yes.

Q. I call your attention to matters appearing on page 1 under the heading, "Seamen's Club."

What is the Seamen's Club referred to?

A. In 1926, in Moscow, a special commission considered the question of the organization of the Marine Transport Workers all over the world, and what policy to pursue in their organization, and it was decided at that time that in important ports in Europe, South America and the United States and Asia, as well, that the Communists should proceed to establish Seamen's [195-A] clubs, to which they should invite seamen, give them certain facilities for their comfort and for their stay in port, and as a result of that, to make contact with the seamen and then to proceed to organize them. For that purpose money was set aside. In the United States the two outstanding Communists who were in charge of the organization of the seamen's clubs were Roy Hudson and George Mink. A sum of money was set aside by the Communist International for that purpose and they proceeded to organize seamen's clubs on the Atlantic Coast and

(Testimony of Benjamin Gitlow.)

in certain of the Latin American countries. These were the seamen's clubs.

Q. Were any seamen's clubs organized on the West Coast?

A. Not at the beginning, no; not that I know of.

Q. And how long did the seamen's clubs remain in existence?

A. Well, there is—some of them are still in existence.

Q. And what was the purpose of forming the seamen's clubs?

A. Seamen's clubs were formed for the purpose of attracting the seamen by giving them facilities such as cheap lunches, a social hall where they could gather, an opportunity to check their baggage, arranging socials where they could have a good time, and where we would send our Communist members to the seamen's clubs to entertain the seamen who happened to be in port [196] and in that way to get the goodwill of the seamen so we could use them for our political and organizational purposes.

Mr. Del Guercio: I offer this document in evidence, if your Honor please.

Presiding Inspector: It may be received:

(The document referred to was received in evidence as Government's Exhibit No. 49.)

By Mr. Del Guercio:

Q. Is Roy Hudson at present a member of the Communist Party, do you know?

(Testimony of Benjamin Gitlow.)

A. He is a member of the Communist Party and is at present a member of the Political Committee of the Party, and is in very high esteem in the Party at the present time.

Q. I will show you a document dated January 16, 1928, and ask you if you can identify it.

A. (Examining document) A meeting of the Secretariat.

Q. Were you present at this meeting?

A. Just a moment (Examining document).

Q. How did you come in possession of this document?

A. No, I was not present at this meeting. As a member of the Secretariat and Political Committee at that time I received it.

Q. Under the heading, "Joint Defense," appearing at the top of page 1 of this document reports were made by certain persons and thereafter a motion was made, among others this one: [197]

"The ILD is to lend \$1000 on the New York Bazaar account", and was that motion carried?

A. That motion was carried, yes.

Q. Could the Political Committee direct the ILD to furnish funds?

A. It could even direct the ILD to jump off the Brooklyn bridge and it would have to do it.

Q. And that is the International Labor Defense? A. Yes.

Q. Is that correct? A. Yes.

Mr. Del Guercio: I offer this document in evidence.

(Testimony of Benjamin Gitlow.)

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 50.)

By Mr. Del Guercio:

Q. I show you another document dated September 8, 1927, and ask you if you can identify it?

A. (Examining document) Those are the minutes of the Central Executive Committee.

Q. I refer you to page 3 of this document, Mr. Gitlow, the matters appearing under the heading "Representative of Party to CI". To what does that refer?

A. That refers to the election of a representative of the Communist Party of the United States to the Communist International. [198]

Q. And who were elected as the Communist Party representatives to the CI at that time?

A. Well, at that time they weren't elected, according to this motion. It says "That the selection of the party representative to the CI be made immediately upon the Party's removal to New York."

Q. To New York? A. Yes.

Q. Oh, I see. I call your attention to page 1 of this document, and particularly to the matter appearing under "Election of Secretariat of Three". To what does that refer, Mr. Gitlow?

A. That referred to the election of the Secretariat.

(Testimony of Benjamin Gitlow.)

Q. And who were elected to the Secretariat at that time?

A. J. Lovestone, William Z. Foster and myself.

Q. And did you serve?

A. I served, yes.

Q. You also served on the Polbureau?

A. Yes, sir.

Mr. Del Guercio. I offer this document in evidence.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 51.)

By Mr. Del Guercio: [199]

Q. I show you a document marked "Confidential" and ask you if you can identify it?

A. (Examining document) This is a confidential letter from the Agitprop Department of the Communist International to the Central Committee of the Communist Party of the United States, dealing particularly for the Women's Department and for the Agitprop Department, outlining the rôle of the Communist women in the war—in a war, should one take place.

Q. How did it come into your possession, Mr. Gitlow? A. I received it.

Q. You received it from whom?

A. I received it from my mother at that time in Moscow.

(Testimony of Benjamin Gitlow.)

Q. I note up on top there it states,—reference is made to "K. Gitlow". A. Yes, sir.

Q. Is that to your mother?

A. Yes, sir.

Q. And what appears above that? What is the writing that appears above that?

A. "Mailed to":

Q. Whose writing is that, if you know?

A. I don't know; I couldn't tell you.

Q. And what date is this? There appear some figures in the middle of the page.

A. 1927, the 31st of the eighth month, 1927.

[200]

Mr. Del Guercio: I offer this document in evidence.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 52.)

By Mr. Del Guercio:

Q. I will show you a two-page typewritten document and ask you if you can identify it? Two or three pages, I believe; three pages.

A. (Examining document).

Q. Three pages. What is that?

A. This was a special document drawn up by the delegation from the United States to the Fourth Congress of the Profintern, dealing with the aims of the party, the immediate aims of the party, respective of the party, in the Needle Trades situation.

(Testimony of Benjamin Gitlow.)

Q. And to whom was the report made?

A. It was made to the Executive of the Red International of Trade Unions.

Q. And how did you come into its possession?

A. I was the Chairman of the delegation to the Congress and I received a copy of it and kept that copy for my own reference.

Q. Did you help prepare this report?

A. I helped to draft it too.

Mr. Del Guercio: I offer this in evidence. [201]

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 53.)

By Mr. Del Guercio:

Q. I will show you a paper containing some writing and ask you if you can identify it?

A. (Examining document) Those are copies of cables which we received from the Communist International, from some of our Party members in Moscow.

Q. How many such cablegrams does this document contain?

A. One, two, three, four.

Q. And how did you come in possession of this document? A. How I came?

Q. Yes.

A. As a member of the Political Committee of the Party I received copies of these cables and I made copies of them.

(Testimony of Benjamin Gitlow.)

Q. Do you know whose handwriting that is that appears at the bottom of the page?

A. That is my own handwriting.

Q. Your own. Who is "Hunky," H-u-n-k-y?

A. Hunky stands for John Pepper, John Swift and Joseph Pogany. He was a Hungarian, so when he sent the cable he signed it "Hunky." [202]

Q. Who is the Kruse mentioned?

A. That stands for William Kruse. He is no longer a member of the Party. At that time he was a student at the Lenin University.

Mr. Del Guercio: I offer this document in evidence.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 54.)

By Mr. Del Guercio:

Q. I will show you a document here purporting to be a report of William Z. Foster and Alex Bittleman, dated Moscow, January 18, 1926, and ask you if you can identify it?

A. (Examining document) Yes.

Q. And how did you come in possession of this document?

A. In 1927, when I was a delegate to the Plenum of the Executive Committee of the Communist International, the archives department of the Communist International gave me a copy of a report on the American Party situation which Foster and

(Testimony of Benjamin Gitlow.)

Bittleman presented to the Communist International in the year 1926. That is how I got this report.

Mr. Del Guercio: I offer this document in evidence.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 55.)

By Mr. Del Guercio: [203]

Q. I will show you a document purporting to be, or headed, rather, "The reorganization of the Workers' Party," dated June 20, 1925, and ask you if you can identify it?

A. (Examining document) Yes; this is an official letter, which the Party had mimeographed, which it received from the Communist International dealing with the reorganization of the Party.

Q. And how did you come in possession of it?

A. Well, not only—I got it as a member of the Political Committee, but all leading officials of the Party received this letter. It was sent to all the districts and all leading officials and functionaries of the Party.

Mr. Del Guercio: I offer this in evidence, your Honor.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 56.)

(Testimony of Benjamin Gitlow.)

By Mr. Del Guercio:

Q. Do you know with what this document deals?

A. Which? Let me have it.

(Mr. Del Guercio handed the document to the witness.)

The Witness: (Examining document) This letter dealt with the Bolshevization of the Party, the Communist International. We had representatives to the Communist International before this letter was published, and the Communist International discussed with our Party representatives what steps the Party [204] must take to make it a real Bolshevik Party, patterned after the Bolshevik Party of Russia, the Communist Party of Russia. And as a result of that, the Communist International drew up a letter of instructions on the Bolshevization of the Party, how to turn the American Party into a true Bolshevik Party, and these instructions went to the party districts and party leaders and were, through them, transmitted down to the party membership.

Q. I show you a paper here containing typing and ask you if you can identify it?

A. (Examining document) This is a copy of a resolution adopted by the Communist International on the internal situation in the American Communist Party.

Q. Does that deal with the same matter contained in the preceding exhibit?

(Testimony of Benjamin Gitlow.)

A. No, something entirely different.

Q. How did you come in possession of this document?

Mr. Gladstein: I didn't hear that question.

(The question referred to was read by the reporter.)

A. (Examining document).

By Mr. Del Guercio:

Q. If you know?

A. Yes, I know how I came in possession of it. I received a copy of that as a member of the Political Committee.

Q. Now, I note, among other things, that this appears: [205]

"We therefore propose the following measures based upon the decisions of the CI on the American Party situation and as the means of achieving the unity of these two groups," and particularly to the second one, "That we accept the decision of the Red Trade Union International on the industrial policy of our party and that we immediately take steps to put it into effect."

Do you know what that decision was?

A. At this time I couldn't tell you.

Mr. Del Guercio: I offer this document in evidence, if your Honor please.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 57.) [206]

(Testimony of Benjamin Gitlow.)

By Mr. Del Guercio:

Q. I show you what appears to be an original letter dated July 28, 1925, on a letterhead of Workers Party of America, National Office, 1113 West Washington Boulevard, Chicago, Illinois, and ask you to state what it is.

A. (Examining letter) This is a letter from C. E. Ruthenberg, Executive Secretary of the Party, stating that "hereto is a copy of the letter from the Comintern and Profintern in reference to trade union work of the Party."

Q. And you received this letter?

A. Yes; I received this letter.

Q. And to what does—I believe mention is made in the letter to an enclosure, is that correct?

A. Right.

Q. To what does the enclosure refer?

A. It refers to a letter from the Communist International and the Red International of Trade Unions, the trade union work of the Communist Party of the United States, outlining policies and giving directions for that work.

Q. And what was the policy of the Communist Party announced with reference to trade union matters?

A. Well, I would have to read this whole letter at this time, if that is what you want.

Mr. Del Guercio: If the Court please, I believe that we should take the time to read this particular document because [207] the Government contends that this is—or will show and will offer

(Testimony of Benjamin Gitlow.)

evidence to show that it is also the present policy of the Communist Party with reference to the same matters.

Presiding Inspector: You want to read it now?

Mr. Del Guereio: Yes.

Presiding Inspector: Very well. Do you want it taken down by the reporter?

Mr. Del Guereio: Yes. (Reading)

"Dear Comrades:

"It is of extreme importance to the life and growth of the Workers Party that its members as a whole realize better the necessity of more intensive work in the labor unions. The labor unions are the basic mass organizations of the workers. They wage war against the employers as one of the most important sectors of the front of the class struggle. The capture of the leadership of the labor union masses in their struggle is vitally necessary not only for the strengthening of the Workers Party at the present time, but also for the ultimate victory of the revolutionary struggle. The capture of the labor unions is our first and foremost task.

"That the Workers Party as a whole does not yet thoroly realize the exceptional importance of trade union activity, is clear from the fact that only 40% of the Party membership are members of labor unions, and even if those only very few are active in the latter work. If the unions are weak and are dominated [208] by the reactionaries, it is the business of the Communists to strengthen

(Testimony of Benjamin Gitlow.)

them and to wage a relentless fight against the leadership and the policies of the reactionaries. In those places and industries where no labor unions exist the Communists must take the initiative and organize unions. We must not sit with our hands folded and wait until the labor bureaucracy finds it necessary to form unions. The organization of the masses into labor unions is the historical task of the Communist movement in America.

"The Party must use disciplinary measures to compel its members to join the labor unions and become active in them. It must be firmly fixed in the mind of every Party member that no worker in an industrial country like America can be a real Communist unless he is an active labor unionist. The Party must take a determined stand against any sign of slackness in labor union activity. The work in the labor unions must be regarded as the basis which will determine the success of the Party in most other spheres of work.

"The Workers Party must render the utmost assistance to the Trade Union Educational League. Wherever the Party has branches the latter must regard it as their duty to set up and maintain local branches of the League. Party members who are trade unionists must actively engage in the work of the League. In the League as a whole and in each separate labor union organization the Party members must be united into a Communist fraction [209] and on all questions act unanimously as one body. The League must resume publication of its

(Testimony of Benjamin Gitlow.)

central organ and extend its literature department, both of which must be supported by the Party members and by the Party as a whole. The idea that the League represents an organization independent of the Party must be eradicated.

"The Workers Party must also do everything within its power to prevent itself becoming isolated from the masses. It must resist the tendencies to reduce the Trade Union Educational League to the position of an exclusive organ of the Communists and their closest sympathizers, irrespective of whether such tendencies are a result of pressure from outside or of pressure on the part of the Party members anxious to keep out non-partisans. The Party must strive to convert the League into an extensive Left Bloc Organization, lining up all the revolutionary and progressive elements in the labor unions against the reactionary bureaucracy.

"The Communist strategy in the labor unions must be to unite, thru the medium of the Trade Union Educational League, all the left wing elements against the old officialdom and their policies. Every struggle of the workers and all everyday activities must be directed to this object. One of the important features of the work in the labor unions is without fail to utilize the elections of trade union officers and of the delegates to the local, district, national and A. F. of L. [210] conventions. Among the so-called progressive elements there is a growing tendency to develop an opposition against the reactionary labor union bureaucracy.

(Testimony of Benjamin Gitlow.)

racy and to put up their own ticket in opposition to them at elections. This tendency must be stimulated and developed by the Workers Party as a means of bringing the workers under its influence. In every election, both in local unions, central Trades Councils and in the international union, the Communists, where they are not sufficiently strong to secure the election of their own candidates, must unite with the progressives and support joint candidates on the basis of the united front. It should be remembered that the officialdom of the American Federation of Labor and of the international unions does not represent a single reactionary mass. The closer the labor union official is to the shop and the dues-payer, the more subject he is to the direct influence of the masses of the workers. Among these elements there are many who are disgusted with the policies of the heads. This discontent, tho not yet organized, nevertheless represents opposition to the old course. The Party must give every possible assistance to the progressive elements in their struggle against the reactionary bureaucracy. The League must strive to establish a united front with these elements on the basis of a concrete program of action.

The League should be actively supported by the Party in [211] the prosecution of the League program endorsed at the Third Congress of the R. I. L. U. Particular attention should be given to the following points.

(Testimony of Benjamin Gitlow.)

"1. Strikes and Wage Movements.

"The Party must actively engage in every strike and wage movement. It must also arouse the masses to take up such movements. It must skillfully utilize these movements for political ends. It must have a program of demands for each mass movement of this kind and the Communists must fight for the leadership in the struggle. The wage cutting campaign carried out by the capitalists must be opposed by a counter-campaign of strikes.

"2. Class Collaboration.

"The Party must conduct a relentless war against all class collaboration plans, such as the Labor Banks, Insurance Companies, the B & O Plan, etc., which are being foisted upon the workers by the reactionary bureaucracy. This campaign must be opposed by a militant struggle for a class war policy. The Party must steadily expose the incapability, corruption and treachery of the reactionary bureaucracy.

"On the question of Labor banking, our policy must be to oppose the establishment of new banks on the present basis and to demand that the existing banks be reorganized on cooperative lines, that they break with Wall Street and refrain from locking up strike funds in various investments. [212]

"3. Organization of the Unorganized.

"In every labor union the Party must raise the

(Testimony of Benjamin Gitlow.)

question of the organization of the unorganized. The Party should also utilize its shop nuclei for the organization of the organized and to obtain the leadership in all their struggle. Where labor unions exist the policy of the Party must be to strengthen them. Where there are no labor unions the Party must take the initiative and form unions."

I do not believe it is necessary to read the rest because it doesn't refer particularly to American policy.

Mr. Del Guercio:

Q. Is that the policy of the Communist Party, Mr. Gitlow?

Mr. Gladstein: Are you asking is that or was that the policy at the time he was a member?

Mr. Del Guercio: I think when it is established as the policy at one particular period that status is presumed to continue until the contrary is established.

Mr. Gladstein: We have been very patient here yesterday and today and have made no objections to counsel phrasing many questions in the present tense. But it appears from the testimony of the witness that his connection with the Communist Party, I think, was severed in 1929. Many of these questions obviously he cannot answer of his own knowledge, or on first hand experience.

We realize that your Honor, when reading the record, will [213] take that into consideration. But

(Testimony of Benjamin Gitlow.)

if counsel is going to continuously phrase these questions in the present tense we then want to make an objection at this time and ask him to confine his questions to this witness to the period of time when he claims to have had first-hand knowledge, experience and information.

Presiding Inspector: I suggest you confine your question, first, to the time that the witness was a member of the Party.

Mr. Del Guercio: Very well.

By Mr. Del Guercio:

Q. Was that the policy of the Communist Party during the period of time that you were a member of it?

A. At that particular time, yes, when this letter was issued and that was in 1925.

Mr. Del Guercio: I offer that document in evidence.

Presiding Inspector: It may be received.

(The document referred to was received in evidence and marked Government's Exhibit No. 58.)

Presiding Inspector: Have you finished with this document?

Mr. Del Guercio: Yes.

Presiding Inspector: And that general subject?

Mr. Del Guercio: Yes.

Presiding Inspector: You are going to take up something else other than the trade union policy?

Mr. Del Guercio: We can stop right here. [214]

(Testimony of Benjamin Gitlow.)

Presiding Inspector: We will recess until 2:00 this afternoon.

(Whereupon, at 12:30 p. m. a recess was taken until 2:00 p. m. of the same day.) [215]